

FORMS OF PROCEDURE
FOR
COURTS AND BOARDS
IN THE
UNITED STATES COAST GUARD
—
1916

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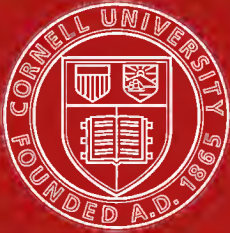
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Forms of procedure for courts and boards



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FORMS *of* PROCEDURE

FOR

COURTS AND BOARDS IN THE
UNITED STATES COAST GUARD



1916



WASHINGTON
GOVERNMENT PRINTING OFFICE
1916

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TREASURY DEPARTMENT,
Washington, November 1, 1916.

The following forms of procedure for courts and boards, based upon law and regulations, are approved and published for the information and guidance of the Coast Guard. While the phraseology need not be absolutely adhered to, yet the procedure laid down should be strictly followed, as it has the department's approval, and deviation therefrom may be materially irregular and erroneous.

BYRON R. NEWTON,
Assistant Secretary.

NOTES CONCERNING MANNER OF MAKING UP RECORDS.

Written legibly; corrections, etc.—Records of all courts and boards shall be written neatly and legibly, whether by hand or on typewriter, without erasures or interlineations, as far as practicable; but if corrections should be necessary they shall, when made, be initialed by the recorder. An undue number of corrections or lack of neatness in making them will be sufficient cause for returning the record for rewriting. If kept in longhand, both sides of the paper shall be written upon; if the typewriter be used, the writing shall be only on one side of the paper. Suitable margins shall be left at the top, bottom, and left-hand side of each page.

Numbering and marking of pages and documents.—The pages of the record shall be numbered in the middle of the margin at the bottom of the page. Documents relating to the organization of the court or board, shall be marked with capital letters and instruments of evidence with numbers; all such marks must be boldly and distinctly made and placed in the lower right-hand corner of each page or sheet.

Modifications of convening order.—The modifications of the convening order are those which are signed and issued by the convening authority, and they must not be confused with orders to perform the duty on the court or board which are issued separately. These modifications of the convening order must appear as a part of every record where changes have been made in the composition of the membership.

Absence of members.—In case of the absence of any member on authorized leave or on other duty, a copy of the orders permitting or directing such absence must be appended. In case of the absence of a member on account of sickness or other disability, a certificate of the cause of the absence shall be appended.

Corrections to testimony.—When a witness makes corrections in his testimony a note in red ink shall be made opposite the place in the left-hand margin of the record. This note shall refer to the page where the corrections are shown.

Order in which documents are appended.—In making up records each document or exhibit shall be prefixed or affixed, as may be required, in the precise order in which it is introduced. All papers of a similar character, such as reports on fitness, communications con-

cerning indebtedness, medical surveys, etc., shall be arranged together in chronological order with the earliest coming first.

Cover sheets.—A neat cover sheet shall be prefixed to the whole record, containing the form herein prescribed. The date on the cover sheet shall be the date when the court or board convenes.

Manner of binding record.—The record, before being forwarded to the convening authority, must have all the pages, documents, and exhibits securely bound together by at least two through fasteners at the top margin, and care shall be exercised to see that the fasteners are through every such page, document, and exhibit. If the exhibits are objects which do not permit of being secured in the manner above indicated, they shall be otherwise attached so as to prevent the possibility of loss.

Notes to be followed.—The notes interspersed through the general and the minor court procedures should be consulted, as there is much therein that applies as well to boards.

Index for lengthy cases.—If the record of a court case or that of a board exceeds 20 pages in length, it shall be preceded by an index showing upon what page each step of the trial and of the examination of the several witnesses, giving their names, may be found; also, in case a witness corrects his testimony, the pages where such corrections are referred to and where made.

GENERAL COURT.

GENERAL COURT.

INCIDENTS OF A TRIAL BY GENERAL COURT.

1. Court meets in closed session.
2. Court opened.
3. Stenographer introduced.
4. Official prosecutor and accused called before court.
5. Accused signifies wishes as to counsel.
6. Counsel, if any, introduced.
7. Recorder reads authorization for employment of stenographer.
8. Recorder reads order detailing official prosecutor.
9. Recorder reads convening order and documents relative to organization of court.
10. Challenge of members.
11. Recorder sworn by the president.
12. Members sworn by the recorder.
13. Stenographer sworn by the recorder.
14. President asks accused if he has received a copy of the charges and specifications, and if so, when.
15. Court cleared to examine charges and specifications.
16. Court opened; president announces decision relative to charges and specifications.
17. Lists of witnesses furnished.
18. President asks accused and official prosecutor if ready for trial.
19. All witnesses directed to withdraw.
20. Recorder reads letter of transmittal and charges and specifications.
21. President arraigns the accused. (Pleas in bar, etc.)
22. Prosecution begins.
23. Prosecution rests.
24. Defense begins.
25. Defense rests.
26. Rebuttal.
27. Surrebuttal.
28. Statement or argument by accused (counsel).
29. Argument by official prosecutor.

30. Trial finished.
31. Court cleared for deliberation on finding.
32. Recorder records finding.
33. Court opened; president announces court ready to receive evidence of previous conviction.
34. Official prosecutor makes statement relative to evidence of previous conviction.
35. Court cleared for deliberation.
36. Recorder records sentence.
37. Court opened.
38. Adjournment.

RECORD OF PROCEEDINGS
OF A
GENERAL COAST GUARD COURT

CONVENED ON BOARD
U. S. COAST GUARD CUTTER WINONA

AT MOBILE, ALA.,
BY ORDER OF THE
SECRETARY OF THE TREASURY.

CASE OF
SECOND LIEUT. A—— B. C——, U. S. COAST GUARD.

JUNE 26, 1916.

VAR. 1. —— convened at the U. S. Coast Guard Depot, Arundel Cove, Md., by order of the Acting Secretary of the Treasury.

VAR. 2. —— convened at the U. S. Coast Guard Academy, New London, Conn., by order of the Assistant Secretary of the Treasury.

VAR. 3. —— convened at U. S. Coast Guard station No. 25 by order of the Assistant Secretary of the Treasury.

Record in revision.—The proceedings in revision must form a separate and complete record, which should be *prefixed* to the record of which it is a revision.

TREASURY DEPARTMENT,
UNITED STATES COAST GUARD,
Washington, June 20, 1916.

First Lieut. D. E. F——, U. S. Coast Guard,
Coast Guard Cutter Miami, Charleston, S. C.

Subject: Convening general court.

SIR: A general Coast Guard court is hereby ordered to convene on board the U. S. Coast Guard cutter *Winona*, at Mobile, Ala., at 10 o'clock a. m. on Monday, June 26, 1916, or as soon thereafter as practicable, for the trial of Second Lieut. A—— B. C——, U. S. Coast Guard, and of such other persons as may legally be brought before it.

The court is composed of the following members, viz :

First Lieut. D. E. F——, U. S. Coast Guard.

First Lieut. of Engineers G. H. I——, U. S. Coast Guard.

Second Lieut. J. K. L——, U. S. Coast Guard.

Second Lieut. M. N. O——, U. S. Coast Guard, is designated as official prosecutor and Third Lieut. P. Q. R. ——, U. S. Coast Guard, as recorder.

By direction of the Secretary.

Respectfully,

S—— T——. *Assistant Secretary.*

Certified to be a true copy.

P. Q. R——.

Third Lieutenant, U. S. Coast Guard, Recorder.

(A)

TREASURY DEPARTMENT,
UNITED STATES COAST GUARD,
Washington, June 20, 1916.

First Lieut. D. E. F——, U. S. Coast Guard,

President General Coast Guard Court,

Coast Guard Cutter Miami, Charleston, S. C.

Subject: Transmitting charges and specifications: instructions.

SIR: 1. Referring to department order of this date convening a general Coast Guard court, of which you are president, to meet on the Coast Guard cutter *Winona*, at Mobile, Ala., at 10 o'clock a. m., on Monday, June 26, 1916, or as soon thereafter as practicable, you are directed to proceed to Mobile, Ala., and convene the court at the time and place specified in said order.

2. There are transmitted herewith charges and specifications, approved by the department, against Second Lieut. A—— B. C——, U. S. Coast Guard, who will be brought to trial before the general Coast Guard court of which you are president.

3. A copy of the charges and specifications has been mailed to Second Lieut. A—— B. C——, U. S. Coast Guard, and he has been ordered to report to you for trial at the time and place designated in the order. His official record has this day been mailed to you in a sealed envelope, to be opened and examined after the findings have been recorded, but before the sentence has been decided upon.

4. A copy of the charges and specifications has also been transmitted to the official prosecutor.

5. When the trial of this case is completed by the court the record of proceedings will be transmitted without delay to Headquarters, and you will await further instructions.

Respectfully,

S—— T——. *Assistant Secretary.*

(B)

TREASURY DEPARTMENT,
UNITED STATES COAST GUARD,
Washington, June 20, 1916.

First Lieut. D. E. F——, U. S. Coast Guard,

President General Coast Guard Court,

Coast Guard Cutter Miami, Charleston, S. C.

Subject: Authorizing stenographic assistance.

SIR: You are hereby authorized to employ at the customary market rates, to be agreed upon in writing before any services are rendered, such steno-

graphic assistance as may in your judgment be requisite and proper for the purpose of recording the proceedings to be had and the testimony taken before the general Coast Guard court of which you are president, ordered to convene on board the Coast Guard cutter *Winona*, at Mobile, Ala., on Monday, June 28, 1916.

Respectfully,

X. Y. Z——, *Captain Commandant.*

Certified to be a true copy.

P. Q. R——,

Third Lieutenant, U. S. Coast Guard, Recorder.

(C)

TREASURY DEPARTMENT,
UNITED STATES COAST GUARD,
Washington, June 20, 1916.

Second Lieut. M. N. O——, U. S. Coast Guard,
Coast Guard Cutter Mahoning, Galveston, Tex.

Subject: Order official prosecutor, general court.

SIR: 1. Referring to department order of this date, copy inclosed, convening a general Coast Guard court, before which you have been designated official prosecutor, to meet on board the U. S. Coast Guard cutter *Winona*, at Mobile, Ala., at 10 o'clock a. m., on Monday, June 26, 1916, or as soon thereafter as practicable, you are directed to perform the duty indicated in said order.

2. There is transmitted herewith a copy of the charges and specifications, approved by the department, against Second Lieut. A—— B. C——, U. S. Coast Guard. The original charges and specifications have been transmitted to the president of the court, and a copy of said charges and specifications has been transmitted to Second Lieut. A—— B. C——, U. S. Coast Guard.

3. There are herewith transmitted for your information and guidance the following papers:

(a) * * *

(b) * * *

(c) * * *

4. You will permit Second Lieut. A—— B. C——, U. S. Coast Guard, or his counsel, to freely examine these papers and to make such copy of any portion thereof as he or his counsel may desire.

Respectfully,

S—— T——, *Assistant Secretary.*

Certified to be a true copy.

P. Q. R——,

Third Lieutenant, U. S. Coast Guard, Recorder.

(D)

CHARGES AND SPECIFICATIONS.

[ORIGINAL.]

Copy delivered accused (here state when).

P. Q. R——,

Third Lieutenant, U. S. Coast Guard, Recorder.

(E)

TREASURY DEPARTMENT,
HEADQUARTERS UNITED STATES COAST GUARD,
Washington, June 29, 1916.

First Lieut. D. E. F——, U. S. Coast Guard,
President General Coast Guard Court,
Coast Guard Cutter Winona, Mobile, Ala.

Subject: Change composition of court.

SIR: Second Lieut. R. A. B——. U. S. Coast Guard, is hereby appointed a member of the general Coast Guard court of which you are president, in place of Second Lieut. J. K. L——, U. S. Coast Guard, hereby relieved.

By direction of the Secretary.

Respectfully,

S—— T——, *Assistant Secretary.*

Certified to be a true copy.

P. Q. R——,

Third Lieutenant, U. S. Coast Guard, Recorder.

(F)

FIRST DAY.

U. S. COAST GUARD CUTTER WINONA,
Mobile, Ala., Monday, June 26, 1916.

(1) The court met at 10 a. m.

Time and place of assembling.—The court shall assemble at the time and place designated in the convening order, which time and place of first assembling can not be changed except by the convening authority. After assembling at the designated place the court shall continue to hold its sessions at that place, unless circumstances should make necessary the holding of temporary sessions in another place, in which case such sessions may be held at such other places as may be selected by the president of the court. When sessions are held at any other place than that designated in the convening order, the record shall show the reason therefor, that the court adjourned to meet at such other place, and that it convened at that place pursuant to adjournment. When the court returns to the original place of assembling the record shall show that fact.

Hours of sessions.—A Coast Guard court may hold sessions at any hour of the day, as may be desirable, but shall not meet on Sunday. Courts are not to meet at unusual hours, nor should the durations of the sittings be unusually protracted, unless informed by the convening authority that the case is one of extraordinary urgency warranting such action.

Present:

First Lieut. D. E. F——, U. S. Coast Guard, president.

First Lieut. of Engineers G. H. I——, U. S. Coast Guard,
member.

Second Lieut. J. K. L——, U. S. Coast Guard, member.

Third Lieut. P. Q. R——, U. S. Coast Guard, recorder.

Sittings of the court.—The court is required to sit from day to day, Sundays excepted, until a sentence is given. An adjournment for a longer period than 24 hours taken during the trial of a case before the court must appear on the record to be by authority of the convening power. This requirement does not apply to adjournment from one case to another.

Proceedings not delayed.—When the proceedings of a court are once begun they should not be suspended or delayed on account of the absence of any of the members so long as three are present. If the court is reduced below that legal quorum, the convening authority should at once be notified, and a copy of the notification appended to the record.

Record of each case complete.—The record of proceedings of each case must be complete in itself, without dependence on or reference to any other.

Detail of orderiy.—Prior to the first meeting of the court the president should, if necessary or desirable, request the commanding officer or senior officer present to appoint an orderly for the court.

The court was closed and the recorder read the convening order (with amendments thereto), the order directing the trial, and the accompanying instructions. The court decided to hold the trial in open (closed) session.

(2) The court opened.

(3) F. E. D——, stenographer, entered.

(4) The official prosecutor, Second Lieut. M. N. O——, U. S. Coast Guard, and the accused, Second Lieut. A. B. C——, U. S. Coast Guard, were called before the court.

(5) The accused stated that he wished Mr. G. E. S—— to act as his counsel; the request was granted; and

(6) Counsel entered.

VAR. 1. The accused stated that he did not wish counsel.

VAR. 2. The accused stated he wished First Lieut. C. D. H——, U. S. Coast Guard, to act as his counsel; the approval of Headquarters having been obtained, the request was granted, and counsel entered.

VAR. 3. The accused stated that he wished Second Lieut. of Engineers A. X. Z——, U. S. Coast Guard, to act as his counsel; the approval of his commanding officer having been obtained, the request was granted and counsel entered.

Duties as counsel.—An officer acting as such shall perform such duties as usually devolve upon counsel for defendant before civil courts in criminal cases. As such he shall guard the interests of the accused by all honorable means known to the law, so far as they are not inconsistent with military relations.

Accused advised of rights.—Enlisted men to be tried shall be particularly advised of their rights in the premises, and their requests for counsel shall, if practicable, be granted.

(7) The recorder read the authorization for the employment of a stenographer, a certified copy of which is appended, marked (C).

(8) The official prosecutor delivered to the president the order of the convening authority detailing him as prosecutor, which order was read by the recorder, and a certified copy appended, marked (D).

(9) The recorder read the convening order (and modifications thereof), certified copy appended, marked (A), and the letter transmitting the charges and specifications, original appended, marked (B).

Marking documents.—All documents relating to the organization of the court shall be marked with capital letters, as "A," "B," "C," etc.; and all those which are instruments of evidence shall be marked with numerals, as "1," "2," "3," etc. Care shall be taken that all such marks are distinct, and they shall be placed at the lower right-hand corner of each page or sheet. The pages of the record shall be numbered in the middle of the margin at the lower edge.

Copies.—All copies of documents or papers shall be certified by the recorder.

Reading of papers, etc.—When the record states that a paper, document, or testimony was read, it is to be understood that it was read aloud.

Disposition of convening order.—The original convening order should be kept until the court is dissolved and then forwarded to the convening authority.

Absence of members.—No member of a general court shall, after the proceedings are begun, absent himself therefrom except in case of sickness.

Illness of member.—In case a member is sick, he shall, if able, request the attending medical officer to report the fact of his sickness to the convening authority. The report shall be forwarded through the president of the court, and a copy thereof shall be attached to the record. When the member is able to resume his duties the attending medical officer must report such fact in the same manner as above prescribed.

Absence of official prosecutor.—The temporary absence of the official prosecutor at any time during the progress of the trial does not invalidate the proceedings, but as the court has no authority to detail any person to act as official prosecutor, it must, in case of his incapacity, adjourn from day to day, until he is able to resume his duty or a successor is appointed by the convening authority.

(10) The accused stated that he did not object to any member of the court.

The official prosecutor stated that he did not object to any member of the court.

VAR. 1. The accused objected to Second Lieut. J. K. L——, U. S. Coast Guard, because (here state reason).

The challenged member replied —— (or did not desire to reply).

The court was cleared, the challenged member also retiring. (It is not compulsory, but it is customary for the challenged member to withdraw.)

When opened, all parties to the trial entered, the president announced that the objection of the accused was sustained, and Second Lieut. J. K. L—— was excused from serving as a member in this case. (Or, the president announced that the objection of the accused was overruled.)

(Should the accused wish to examine the challenged member.) Upon the request of the accused the challenged member was called and examined.

(Examination as hereinafter given for the defense.)

(Should the accused wish to support his challenge by the evidence of witnesses.) ——, a witness for the accused, declared as follows: ——.

The accused did not object to any other member. (Or, accused next objected to ——,) (Same procedure as above.)

VAR. 2. The official prosecutor objected to —— (Same procedure as in challenge by the accused, except that declarations are taken as hereinafter given for the prosecution.)

The official prosecutor did not object to any other member. (Or, the official prosecutor next objected to ——.)

Official prosecutor not challenged.—The official prosecutor can not be challenged on any grounds.

Time for challenge.—As a general rule, whatever objection either party may have to make to the personnel of the court, should be made before the court is sworn; but at any stage of the proceedings prior to the finding any member may be challenged by either party for cause not previously known.

Court's decision final.—The court's decision as to the validity of a challenge can not be opposed by either party.

If court reduced below quorum.—If, by challenge, the court is reduced below the legal quorum, the convening authority must be notified by letter or telegram and the court adjourn. A copy of the communication must be appended to the record.

(11) (12) (13). The recorder was duly sworn by the president, and each member of the court and the stenographer (clerk, interpreter) by the recorder.

VAR. 1. (When the recorder is a member of the court.) The recorder was duly sworn by the president, and the president and other member and stenographer by the recorder.

Acts of court before being sworn.—Until a court is duly sworn according to law, it is incompetent to perform any judicial act, except to hear and determine challenges against its own members.

Form of oath for recorder when not a member.—You, A—— B——, do solemnly swear (or affirm) that you will keep a true record of the evidence given to and the proceedings of this court; that you will not divulge or by any means disclose the sentence of the court until it shall have been approved by the proper authority, and that you will not at any time divulge or disclose the vote or opinion of any particular member of the court, unless required so to do before a court of justice in due course of law. So help you God.

Form of oath for recorder when a member.—You, A—— B——, do solemnly swear (or affirm) that you will truly try, without prejudice or partiality, the case of C—— D——, now depending, according to the evidence which shall come before the court, the regulations for the government of the Coast Guard, and your own conscience; that you will not by any means divulge or disclose the sentence of the court until it shall have been approved by the proper authority; that you will not at any time divulge or disclose the vote or opinion of any particular member of the court, unless required so to do before a court of justice in due course of law, and that you will keep a true record of the evidence given to and the proceedings of this court in the case now about to be tried. So help you God.

Form of oath for a member.—You, A—— B——, do solemnly swear (or affirm) that you will truly try, without prejudice or partiality, the case of C—— D——, now depending according to the evidence which shall come before the court, the regulations for the government of the Coast Guard, and your own conscience; that you will not by any means divulge or disclose the sentence of the court, except to the recorder, until it shall have been approved by proper authority, and that you will not at any time divulge or disclose the vote or opinion of any particular member of the court, unless required so to do before a court of justice in due course of law. So help you God.

Form of oath for stenographer or clerk.—You, A—— B——, do solemnly swear (or affirm) that you will faithfully perform the duty of stenographer (clerk, or reporter) in aiding the recorder to take and record the proceedings of this court, either in shorthand or ordinary manuscript, and that you will not disclose or divulge any of the proceedings until the sentence shall have been approved by proper authority, unless required so to do before a court of justice in due course of law. So help you God.

Form of oath for interpreter.—You, A—— B——, do solemnly swear (or affirm) that you will truly interpret the testimony of witnesses in the case now in hearing before this court. So help you God.

(14) The accused stated that he had received a copy of the charges and specifications preferred against him (here state when).

Copy forwarded to accused.—The copy is sent to the accused by the convening authority through the usual official channels. Facts as to the delivery may be obtained from the commanding officer under whom the accused is serving.

Denial of accused as to receipt.—If the accused denies having received a copy, evidence to establish the fact may be introduced.

VAR. The recorder read a letter (or telegram) from the convening authority authorizing and directing the court to make a change (or changes) in the specifications, and stated that the same had been made both in the original and in the copy in the possession of the accused and of the official prosecutor, respectively.

Copies of charges, etc., for court.—The recorder shall, for the convenience of the court, hand to each of the members a copy of the charges and specifications on which the accused is to be tried.

(15) The court was cleared to examine the charges and specifications.

Court to examine charges and specifications.—At this stage the court shall critically examine the charges and specifications, to see that they are in due form and technically correct. When the court goes on record as having so found them it thereby asserts that they are legally and properly drawn, that they conform to the requirements of law and regulation, and that the specifications sustain the charges.

Alteration of errors.—After a charge and specification has been signed by the proper authority and ordered to be investigated, it is not competent for any person to make alterations therein without first having obtained the consent of such authority, except that the court may correct manifest clerical errors.

Technical and clerical errors.—Technical errors are, in general, those which the charges and specifications disclose and which would be sufficient to sustain a demurrer or special plea; such as charge not supported by specification, uncertainty as to time or place of offense, lack of jurisdiction of court, etc. Clerical errors are those of spelling, punctuation, etc., correction of which does not alter the facts.

Authorized changes made by the court.—Should the convening power authorize the court to amend legal defects in the charges and specifications before the accused is called upon to plead, it is to be understood that in doing so the court is strictly responsible that the facts are not changed nor the legal responsibilities weakened. It shall on every occasion communicate to the accused any alteration in the charges which were delivered to him, as soon as possible after such alteration shall have been made.

(16) When opened, all parties to the trial entered, and the president announced that the court found the charges and specifications in due form and technically correct.

VAR. ——— the president announced that the court having found the specifications (or as the case may be) not in due form, had sent a communication to the convening authority, copy appended, marked “—,” and would await a reply. The court adjourned (took a recess) until ———.

The court met pursuant to adjournment (reassembled at the expiration of the recess). Present: ———.

When opened, all parties to the trial entered; the recorder was directed to correct the copy in the hands of the accused to correspond with the charges and specifications corrected by direction of the convening authority; or

It was announced that the court would proceed with the trial on the charges and specifications as originally received; copy of letter (or telegram) from convening authority appended, marked "—."

(17) The official prosecutor furnished the president and the accused with a list of witnesses for the prosecution, and the accused furnished the president and official prosecutor with a list of the witnesses for the defense.

VAR. In response to a question by the president, the accused stated that he had no list of witnesses to offer.

Lists of witnesses.—Neither party is precluded from calling further witnesses whose attendance may, during the course of the trial, be found necessary to the proper administration of justice.

(18) The accused stated that he was ready for trial and the official prosecutor that he was ready to proceed with the case.

VAR. 1. The official prosecutor requested a postponement of the trial (here state reason). The court was cleared. When opened all parties to the trial entered. The court adjourned to meet to-morrow at ——— o'clock. (Or) when opened all parties to the trial entered and the president announced that the court had decided to proceed with the trial.

VAR. 2. The accused requested a postponement (here state reason). The court was cleared, etc. (Continue as when postponement is requested by official prosecutor.)

Application for postponement.—An application to suspend the proceedings of a court for a longer period than from day to day, Sundays excepted, must be referred to the convening authority, who alone has power to grant the request.

(19) No witnesses were present.

VAR. All witnesses were directed to withdraw.

Warning as to withdrawal.—Before the charges and specifications are read to the accused, the court shall warn all witnesses to retire from the room and not to return until officially called. This warning should be repeated daily at the beginning of the session.

(20) The recorder read the letter of transmittal and the charges and specifications, originals prefixed, marked "—" and "—."

(21) The president arraigned the accused as follows:

Questions and answers distinct.—The questions constituting the arraignment and the answers thereto, if any be given, must be distinctly recorded.

Q. You, Second Lieut. A—— B. C——, United States Coast Guard, have heard read the charges and specifications of charges preferred against you; how plead you to the first specification of the first charge, guilty or not guilty?

A. Not guilty (guilty) (the accused stood mute).

Q. To the second specification of the first charge, guilty or not guilty?

A. * * *

Q. To the first charge, guilty or not guilty?

A. * * *

Q. To the specification of the second charge, guilty or not guilty?

A. * * *

Q. To the second charge, guilty or not guilty?

A. * * *

Procedure on plea of guilty.—Should the accused plead either "guilty" or "guilty in a less degree than charged," the president shall warn him that he thereby precludes himself from the benefits of a regular defense by the former plea and as to the acts confessed by the latter. It is the duty of the court in the latter case to consider a statement from the accused together with the plea, and if guilt is not conclusively admitted, the court will direct the recorder to enter a plea of "not guilty" and proceed to trial.

Evidence in extenuation.—After the above warning, should the accused persist in a plea of guilty, the court, before proceeding to deliberate and determine upon the sentence, shall allow him to urge anything he may desire to offer in extenuation of his conduct, to call witnesses as to character, and to offer any other evidence of a strictly palliative nature; and the official prosecutor shall have the right to cross-examine such witnesses and to introduce evidence in rebuttal.

Evidence after plea of guilty.—As by the plea of guilty everything alleged is admitted, no evidence shall, when such plea is offered, be taken by the prosecution, unless in the judgment of the court such course be necessary in order to show all the circumstances of the offense either in mitigation or aggravation.

Not guilty, stands mute, etc.—If the accused stand mute, or if, after making objections to the court which it overrules, he refuse to offer evidence or to make any defense, the trial shall proceed as if he had not pleaded "not guilty."

Change of plea.—The accused may, at the discretion of the court, be allowed at any time before the trial is finished to substitute for a plea of guilty or guilty in a less degree than charged, a plea of not guilty, or *vice versa*.

Plea in bar of trial.—Pleas in bar of trial are sometimes submitted by the accused for the consideration of the court. These may be either to the jurisdiction of the court or special pleas which go to the merits of the case. Whatever such plea may be, it must be fully recorded in the proceedings. If a written statement of a plea be handed into court, it shall be read and appended to the record.

Procedure after plea in bar.—If the plea be admitted as valid, an extract from the proceedings of the court shall be forwarded to the convening authority for his information; but if the plea be considered as invalid, the decision of the court shall be communicated to the accused upon the court being opened, it shall be duly recorded, and the trial shall proceed.

Pleading less degree.—In case the charge is "desertion" and the accused desires to admit the offense of "absence without leave" only, the proper form of pleading, if the facts set forth in the specification are true except as to intent and the accused desires to admit them without proof, is as follows: To the specification—Guilty except to the words "desert" and "in desertion," and to those words not guilty; and for the excepted words should be substituted, respectively, the words "absent himself without leave" and "so absent" and to such words, guilty. To the charge—Guilty in a less degree than charged, guilty of absence without leave.

Rejection of plea.—If, after a plea of guilty in less degree, the court decides to proceed with the trial of the accused for the greater offense with which he is charged, such plea in less degree shall be rejected and the accused advised by the president to substitute a plea of "not guilty." Should the accused decline to plead thus as advised, the court shall direct the trial to proceed as if the plea of "not guilty" had been entered, and the prosecution shall then be put to the proof of every allegation contained in the specification. Save in exceptional cases, a court should try the accused for the offense as charged.

VAR. 1. The accused pleaded in bar of trial saying (here give plea if oral). Or, ——— and submitted a written plea, which was read by him (his counsel), appended, marked “—.”

The accused stated that he had no testimony to introduce in support of his plea.

Or, a witness on behalf of the accused in support of his plea entered and was duly sworn. (The testimony is taken in the same manner as hereinafter given for the prosecution; arguments may then be made as at the end of the trial, the accused having the opening and closing.) (Continued as in VAR. 2.)

VAR. 2. (When no testimony is introduced, but the accused or counsel wishes to submit a written or oral argument in support of plea.)

The accused (counsel) read an argument in support of the plea by the accused, original appended, marked “—”; (or) the official prosecutor did not desire to reply; (or) the official prosecutor requested until ——— in order to prepare his reply, whereupon the court adjourned (took a recess) until ———.

(Also, continued from VAR. 1.)

The court was cleared. When opened all parties to the trial entered and the president announced that the court overruled the plea, and asked the accused if he had any further plea in bar to offer. He replied in the affirmative and (same as before), or he replied in the negative, and the president arraigned the accused.

Q. (Same as before.) (Or)

When opened, all parties to the trial entered, and the president announced that the court decided that the plea by the accused was valid.

The president thereupon addressed a communication to the convening authority, copy appended, marked “—,” transmitting an extract from the proceedings of the court stating that the accused had submitted a plea in bar (state plea) which the court had decided was a valid one.

VAR. a. (If the accused pleads guilty, etc. See notes following arraignment, *ante*.) The accused was duly warned as to the effects of his plea, and persisted therein. (This warning will, of course, not be given when, as may sometimes be the case, the prosecution intends, notwithstanding the plea of guilty, to introduce evidence to show the degree of criminality involved.)

The accused persisted in his plea.

VAR. b. The accused withdrew his plea of guilty and was rearraigned as follows: * * *

Arraignment.—The arraignment is the beginning of the trial.

In cases of desertion.—It has not infrequently happened that enlisted men charged with desertion have, in connection with a plea of guilty, made a statement disclaiming having had, in absenting themselves, any intention of abandoning the service and stating facts which, if true, constitute absence without leave only. In such a case the accused can not, in general, fairly be convicted of desertion in the absence of an investigation. When such conditions arise, the president of the court shall direct the recorder to change the plea to not guilty.

(22) The prosecution began.

Member, official prosecutor, or recorder as witness.—If any member of the court, the official prosecutor, or the recorder is required to testify for the prosecution he should be the first witness called. Should the president of the court become a witness, the oath or affirmation shall be administered to him by the recorder, and the member next in rank shall preside during the progress of his examination. If the recorder be a witness the oath or affirmation shall be administered to him by the president, and he shall record his own testimony unless the employment of a stenographer or clerk has been authorized. When a member, the official prosecutor, or the recorder has completed his testimony an entry shall be made to the effect that the witness resumed his seat as member, official prosecutor, or recorder.

Exception as to competency.—Should either party take exception as to the competency of any witness, such exception must be stated in open court and, together with the decision of the court thereon, must be fully recorded in the proceedings.

Examination of witness to whom exception is made.—If either side objects to the competency of a witness, he may be examined relative thereto before he is regularly sworn as a witness, in which case the following oath shall be administered:

Oath administered on voir dire.—You swear (or affirm) that you will true answers make to questions touching your competency as a witness in this case. So help you God (or, this you do under the pains and penalties of perjury).

When exception should be made.—As a general rule the exception to the competency of a witness shall be stated before he is sworn, but at whatever stage of the trial the incompetency of the witness appears, if the court decides that the objection to his competency is valid, it may arrest the evidence and disregard his testimony.

Reading of charges to witness.—Before a witness is examined, the general charges may be read to him, if the court thinks proper; but the specifications shall not be read to him, particularly when they are so worded as to instruct him how to answer, or to make known to him the minute facts of the case.

A witness for the prosecution entered and was duly sworn.

Form of oath for a witness.—You, A——— B———, do solemnly swear (or affirm) that the evidence you shall give in the case now before this court shall be the truth, the whole truth, and nothing but the truth, and that you will state everything within your knowledge in relation to the charges. So help you God (or, this you do under the pains and penalties of perjury).

(If the witness do not consider the preceding oath as binding on his conscience, he shall be sworn according to the peculiar ceremonies of his own religion, or in such manner as he may deem binding.)

Warning to witnesses.—The president shall warn each witness before giving testimony to testify only to facts within his own knowledge.

Examined by the official prosecutor (president):

1. Q. What is your name, rank (rating), and present station?

A. J. A. C———, second lieutenant, United States Coast Guard, attached to Coast Guard cutter *Winona*.

2. Q. As whom do you recognize the accused?

A. As Second Lieutenant A. B. C———, United States Coast Guard, serving on the *Winona* at Mobile.

Questions numbered.—The questions asked each witness shall be numbered consecutively throughout his examination. If the examination is interrupted by recess or adjournment and is resumed when the court reassembles or reconvenes, the numbering shall be continued. If, however, the first examination of the witness is completed and, later in the trial, he is recalled, the numbering of the questions asked on this later examination shall begin anew.

Answers paragraphed.—All answers of a witness shall begin a new paragraph, as herein shown.

Leading questions.—In the direct examination leading questions are not permitted except (1) questions as to identification, (2) introductory questions, (3) questions tending to aid a defective memory, and (4) questions to a witness who appears to be hostile to the party that called him. But, especially in cases where identification is an important element in the case, a witness should not be asked if he recognizes the accused as such and such a person, giving his name, unless the accused has already been sufficiently identified.

Direct examination.—All the testimony desired and obtainable from the witness should be drawn from him in the direct examination. The court may or may not permit a subsequent direct examination on matters not previously touched upon.

3. Q. * * *

Var. This question was objected to by the accused (a member) on the ground (here state reason).

The official prosecutor replied (here give reply).

The court was cleared. When opened all parties to the trial entered and the president announced that the objection by the accused (member) was sustained.

(Or ——— announced that the court overruled the objection.

(If objection is overruled.)

3. Q. * * *

A. * * *

Cross-examined by the accused (counsel):

4. Q. * * *

A. * * *

Cross-examination.—The object of cross-examination is to test the credibility of the witness.

Leading questions.—Leading questions and also questions that are not relevant are permitted on cross-examination, provided their purpose is to test (1) the witness's power of observation, (2) his accuracy of memory, or (3) the connection of his statements with each other or with the attendant circumstances.

Reexamined by the official prosecutor:

23. Q. * * *

A. * * *

Recross-examined by the accused (counsel):

31. Q. * * *

A. * * *

Examined by the court:

42. Q. * * *

A. * * *

VAR. 44. Q. Question by a member: * * *

This question was objected to by the accused (official prosecutor) on the ground (here state reason).

The court was cleared. When opened all parties to the trial entered and the president announced that the court sustained the objection of the accused (official prosecutor).

(Or ——— announced that the court overruled the objection of the accused (official prosecutor). (The question then becomes a question by the court.)

44. Q. * * *

A. * * *

Questions of members.—All questions originating with members, and which have been received, are recorded as “by the court,” but when made the subject of discussion and rejected they are recorded as “by a member.”

Character of questions by members.—A member may put such questions as he desires; though, since members must be impartial and without prejudice, questions by them should, in general, be for the purpose of making clear the testimony already given.

How questions asked.—A question by a member may be put directly to a witness without submitting it first to the court; if, however, it is objected to and ruled out it must be recorded as “by a member.” It is generally preferable to submit the questions to the court before they are asked.

Further examination of witness.—If witness is examined by the court, an opportunity should be afforded the official prosecutor and the accused, respectively, to reexamine and recross-examine the witness upon new matter brought out by the court's examination.

Neither the court, the official prosecutor, nor the accused (counsel) had any further questions to ask the witness.

The witness verified his testimony, was duly warned, and withdrew.

Testimony of witness read.—The recorded testimony of a witness shall be read to or by him in order that he may verify, correct, or amend it. If this method is not convenient, the procedure shown in VAR. 3, below, shall be followed.

Warning to witness.—Before a witness withdraws from the court room the president shall warn him not to converse upon matters pertaining to the trial during its continuance. This warning shall be omitted in the case of members, the official prosecutor, the accused, and the counsel, if they are called as witnesses.

Omission of step in examination.—If any step in the examination of a witness is omitted by reason of the fact that the party whose turn it is to examine does not desire to ask any questions, the record must show by a suitable entry that an opportunity was afforded; thus, “The accused did not desire to cross-examine, etc.,” etc.

VAR. 1. ——— corrected his testimony as follows: Page —, answer to question No. —, the words “———” changed to “———,” and as thus amended was read, pronounced by him correct, and, after being duly warned, he withdrew.

VAR. 2. ——— and then resumed his seat as official prosecutor (president, member).

VAR. 3. The witness was directed to report to-morrow at — o'clock —. m. to correct or verify his testimony, and, after being duly warned, he withdrew.

Direction to witness.—The direction in VAR. 3, above, is given in order that the witness may correct, amend, or verify his testimony on the next or some future day, when it is not convenient to have him do so immediately at the conclusion of his examination.

Manner of correcting testimony.—Upon the reappearance of the witness at the time indicated, the correction, amendment, or verification may be accomplished in either of two ways. First, the witness may be present during the reading of so much of the record as contains his testimony, and, at the conclusion of such reading, make any necessary changes or verify it; or, second, he may be furnished with so much of the record as contains his testimony, thus enabling him to reconsider and revise the same, after which he is called before the court to correct, amend, or verify it.

Manner of recording corrections.—In recording corrections or amendments made by a witness no erasure or obliteration of his original testimony is permitted. The correction or amendment desired, and any remarks made by the witness in connection therewith, are to be separately and distinctly entered on the record.

Corrections indicated in red ink.—When a witness corrects or amends his testimony, as above specified, a marginal note shall be made in red ink opposite the testimony which is changed. This note shall refer to the page of the record where the correction may be found (as, "See correction, p. —").

Examination upon corrections.—If the correction or amendment is material, the witness may be cross-examined thereon.

The court took a recess until — p. m.

The court reassembled at the expiration of the recess. Present: All the members, the official prosecutor, the stenographer, the accused, and his counsel.

Recess or adjournment.—When the business of the court is suspended from one day to the next, or for a longer period, the record shall show that the court *adjourned* until the time agreed upon; but when the period of suspension of business is from one part of a day to another part of the same day, the record should show that a *recess* was taken for the time mentioned. It is not necessary to take notice in the record of a mere recess, but if noticed, it shall appear on the record that on reassembling, the members, the recorder (if not a member), the official prosecutor, the accused, and his counsel, if any, are present.

VAR. 1. The court adjourned to meet to-morrow, Saturday (or if Saturday, to meet Monday), at — o'clock a. m.

VAR. 2. The official prosecutor stated that ———, a material witness, had not appeared, and requested the court to adjourn until to-morrow morning. The court adjourned to meet, etc.

Duty of officer or enlisted person when summoned to appear.—An officer or enlisted person, who is serving at the place of assembling of a court and is summoned by the president of the court to appear and testify as a witness, shall appear and testify. If he refuses to appear and testify when summoned, or if he is guilty of willful false swearing, or behaves with impropriety before a court, appropriate charges and specifications shall be preferred against him by the president of the court. The president of a court is empowered to summon any person in the Coast Guard to appear and testify as a witness before such court, if there be no travel expense involved. Should travel expense be involved and the presence of the person be necessary, the president shall notify Headquarters of the facts.

Civilian witnesses.—There is no authority of law to compel persons unconnected with the public service to appear before a court as witnesses. The president of a court may request in writing such persons to appear and testify, but their attendance would be voluntary.

The court adjourned to meet at — o'clock a. m. to-morrow, the — instant.

P. Q. R——,
Third Lieutenant, U. S. Coast Guard, Recorder.

SECOND DAY.

U. S. COAST GUARD CUTTER WINONA,
Mobile, Ala., Tuesday, June 27, 1916.

The court met at 10 a. m.

Present: All the members, the recorder (if not a member), the official prosecutor, the stenographer, the accused and his counsel (if any).

No witnesses were present.

VAR. All witnesses were directed to withdraw.

The record of proceedings of yesterday (the first day of the trial; or Saturday) was read and approved.

Reading record.—In reading the record of the court, the salient features of the proceedings only need be read; it is not necessary to read the testimony recorded nor the various interlocutory arguments of counsel. The court's rulings, however, on questions submitted for decision should be read.

VAR. 1. Present: All the members except ————. Also present: The recorder (if not a member), the official prosecutor, the stenographer, the accused and his counsel.

VAR. 2. Present: All the members except ————, the medical certificate accounting for his absence was read and appended, marked "———." Also present: The recorder (if not a member), the official prosecutor, the stenographer, the accused and his counsel.

Procedure in absence of member.—In case of the absence of a member an adjournment should be taken until the next day, or over Sunday, as the case may be unless it appears that the absence of the member may be protracted, in which case the president should advise the convening authority of the facts.

VAR. 3. Present: All the members except Second Lieut. J. K. L———. U. S. Coast Guard, whose absence is accounted for by the medical certificate previously read and appended.

The recorder read an order from the convening authority relieving Second Lieut. J. K. L———. U. S. Coast Guard, and appointing Second Lieut. R. A. B———, U. S. Coast Guard, as a member of the court, copy appended, marked "———."

Procedure upon seating of new member.—In the case of a member of the court appointed and taking his seat as such after the trial has begun, the procedure shall be as follows:

The accused stated that he did not object to this member. (Should he object, proceed as under challenge.)

Second Lieut. R. A. B———, U. S. Coast Guard, was duly sworn. No witnesses were present.

The record of proceedings of yesterday was read and approved.

Each witness who had been examined before the appointment of Second Lieut. R. A. B———, U. S. Coast Guard, was called before the court, informed that his oath previously taken was still binding, heard his own evidence read, and, Second Lieut. ——— not desiring to question him, he pronounced his testimony correct and withdrew.

(Should Second Lieut. ——— wish to examine the witness, or should any other of the parties to the trial wish to question him on any correction he may have made in his testimony, proceed as if he were a new witness about to be examined.)

VAR. 4. Present: All the members, the recorder (if not a member), the stenographer, the accused, and his counsel. The official prosecutor being absent, the court adjourned until tomorrow, the — instant, at 10 a. m.

Official prosecutor's absence protracted.—As the court has no authority to detail an official prosecutor, it shall, if the latter's absence is likely to be protracted, notify the convening authority of such absence.

VAR. 5. [In case of promotion of member, recorder (of not a member), or the official prosecutor since the convening order was issued.]

The recorder read a communication, copy appended, marked "—," from Headquarters, addressed to First Lieut. D. E. F——, U. S. Coast Guard, transmitting to him his commission as a captain in the Coast Guard.

VAR. 6. The record of proceedings of yesterday was read and objected to by the accused (a member) (the court), inasmuch as (here state reason). The court was cleared. When opened, etc. (if objection is sustained), the record was corrected so that "—" on page — shall read "—."

With this correction the record was approved.

VAR. 7. At the request of the recorder, who stated that the record of proceedings of yesterday, the — day of the trial, was not ready, the court took a recess until —; or the court decided to postpone the reading of this record until such time as it shall be reported ready, and in the meantime to proceed with the trial.

VAR. 8. During the reading of so much of the record as contained the testimony of ———, he was called before the court, and, having been informed that the oath previously taken was still binding, stated that he desired to make the following correction in his testimony: Page —, answer to question No. —. line No. —, strike out the words "—" and insert the words "—."

With this correction, he pronounced his testimony correct and withdrew.

VAR. 9. ———, who had previously testified, was called before the court, informed that the oath previously taken was still binding, and stated that he had read over (or had had read over to him) the testimony given by him on —, the — day of the trial, pronounced it correct, and withdrew. (Or stated that he desired to make the following corrections, etc.)

When variation 9 is used.—Variation 9 is to be used when a witness has been given that part of the record containing his testimony and has read it over (or has had it read over to him) outside of court.

A witness for the prosecution entered and was duly sworn.

VAR. L. E. M——, the witness under examination when the court adjourned appeared, and, being duly warned that the oath previously taken was still binding, continued his testimony. 23. Q. ———.

Examined by the official prosecutor (president):

1. Q. * * *

A. * * *

2. Q. * * *

The witness declined to answer, on the ground that it might tend to incriminate him.

The official prosecutor requested the court to direct the witness to answer.

The court sustained the witness.

Var. The court was cleared. When opened, all parties to the trial and the witness entered, and the president announced that the witness need not (must) answer the question.

Witness may decline to answer.—A witness may properly decline to answer when it may tend to incriminate him; no inference whatever from such a declination is permissible, except in case of the accused himself.

Request that witness be required to answer.—The official prosecutor may request the court to require the witness to answer on the ground that the answer would not tend to incriminate him. If the court sustains the request, the witness must answer or be in contempt. If his answer, when made, does tend to incriminate him, the accused can not object or require the court to exclude the evidence on that ground; but such answer can not subsequently be put in evidence on a criminal proceeding against the witness. A witness may be compelled to answer as to a matter which is material to the issue on trial, notwithstanding his answer may have a tendency to disgrace him or bring him into disrepute; but may refuse to answer where the inquiry is as to collateral, irrelevant, or immaterial matters.

Privilege a personal one.—The privilege of declining to answer is a personal one and can be interposed only by the witness himself, but he may be informed of his rights in the premises. (See Notes on Evidence, pp. 126, 127, and 128.)

3. Q. * * *

A. * * *

The witness declined to answer, on the ground that his answer would violate a privileged communication (here state in what manner).

The court sustained the witness (or as the case may be).

Privileged communications.—On grounds of public policy a witness may properly decline to answer questions that would violate privileged communications. Such are communications between attorney and client, communications between husband and wife, State secrets, etc. The last are included in all departments of the Government, and the question of inclusion under this head is decided by the court in each case on grounds of the requirements of public policy.

Privilege a personal one.—The privilege of declining to answer is a personal one and can be interposed only by the witness himself, but he may be informed of his rights in the premises.

Examination of succeeding witnesses.—The examination of succeeding witnesses should be conducted on the lines indicated for the first witness.

Z. X. D—— entered as a witness for the prosecution and was objected to by the accused (here give reason).

Grounds for objection to witness.—In general, a witness may be objected to on account of extreme youth, thus being unable to distinguish between truth and falsity, disease affecting the mind, or any other cause of the same nature which would prevent him from understanding and intelligently testifying. Deaf and dumb persons are not, by reason of those physical defects alone, incompetent. In the case of husband and wife, neither spouse is competent to testify for or against the other before courts, excepting that in crimes involving personal injury committed by one upon the other, the injured spouse may testify against the other.

Rules governing the competency of witnesses.—The rules governing the competency of witnesses before the criminal courts of the United States and the States, where apposite, will generally, though not always necessarily, be followed in the practice of Coast Guard courts.

The official prosecutor replied (here give reply).

How decided.—The objection to a witness on the ground of incompetency is tried and decided similarly to the plea in bar. It may be interposed at any time after the witness is called.

Witness examined on voir dire.—If the objecting party wishes to examine the witness on his *voir dire*, or to introduce testimony, the following oath should be administered by the recorder:

Oath on voir dire.—You, A—— B——, swear that you will true answers make to questions touching your competency as a witness in this case; so help you God.

If objection made while witness on stand.—If the question of the witness's competency arises while he is on the stand, his examination is arrested and the question decided. If he is declared not competent the court will disregard any testimony that he may have given; if competent, the examination is continued. The court itself decides the question of competency.

(The evidence may be continued and completed, if witness is competent, as in the case of other witnesses.)

* * * * *

3. Q. Are you the legal custodian of the current enlistment contract and record of the accused (*or*, of the ship's log of the United States Coast Guard cutter *Winona*) (*or*, other official record)? If so, produce it.

A. I am.

Method of introducing documentary evidence.—Documentary evidence before Coast Guard courts, consisting generally of public writings, will be introduced by the proper custodian taking the stand as a witness to identify such documents, presenting them to the accused for inspection and opportunity to interpose objection to their admission, and then, if there be no reasonable objection interposed, reading therefrom such entries as may be pertinent to the issue, certified copies of which must be appended to the record. Upon objection being interposed by either party to the trial, the court will rule upon the objection, the decision thereon being final.

Documentary evidence in case of desertion.—That a person has been charged with desertion is no evidence that he has committed the offense. Therefore, the entry on an enlistment contract and record, or other official record, that a person deserted is not legal evidence of his desertion, but is only evidence that he has been so charged. Also, it has been held that an entry upon an official record that an accused deserted on a certain day and was subsequently apprehended as a deserter is not legal evidence of the fact of desertion.

Official records.—Official records on file at Headquarters, and copies of the same, duly certified, are evidence of the fact originally entered therein and not compiled from other sources, subject to rebuttal by proper evidence that they are mistaken or incorrect.

General orders.—General orders may ordinarily be proved by printed official copies in the usual form. The court will, in general, properly take judicial notice of the printed order as genuine and correct.

Records of Coast Guard courts.—Copies of records of Coast Guard courts properly authenticated are admissible in evidence equally with the originals.

Enlistment contract and record.—The enlistment contract and record and the record of physical examination for service are original writings made by officers in the performance of duty and are competent evidence of the facts recited therein. Copies, duly authenticated, are admissible as fully as the originals. When the enlistment contract and record has been forwarded to the president he becomes its legal custodian after he receives it.

Parties have right to inspect documents.—The party against whom documentary evidence is adduced has a right to inspect it before it is read or shown to the court.

The witness produced the current enlistment contract and record of the accused (or other document, as the case may be), and it was submitted to the accused and the court, and by the official prosecutor offered in evidence. There being no objection, it was so received.

4. Q. The accused is charged with ———; read such portions of that record (or other document) as may refer thereto.

The witness read from the said record (or other document) an extract (or extracts), copy appended, marked “———.”

VAR. 1. 3. Q. I show you a book [witness shown ship's log]; can you identify it?

A. I can; it is the ship's log of the U. S. Coast Guard cutter *Winona*.

VAR. 2. 3. Q. I show you a letter [witness shown paper]; can you identify the handwriting in which it is written?

A. I can.

4. Q. By whom was it written?

A. By ———.

When opinion as to handwriting deemed relevant.—When there is a question as to the person by whom any document was written or signed, the opinion of any person acquainted with the handwriting of the supposed writer, that it was or was not written or signed by him, is deemed a relevant fact.

How opinion may be formed.—A person is deemed to be acquainted with (and may prove) the handwriting of another person when he has at any time seen that person write, or when he has received documents purporting to be written by that person in answer to documents written by himself or under his authority and addressed by that person, or when, in the ordinary course of business, documents purporting to be written by that person have been habitually submitted to him.

Comparison of handwriting.—In any proceeding before a court or judicial officer of the United States where the genuineness of the handwriting of any person may be involved, any admitted or approved handwriting of such person shall be competent evidence as a basis for comparison by witnesses, or by the jury, court, or officer conducting such proceeding, to prove or disprove such genuineness.

Evidence of contents of a writing.—There can be no evidence of the contents of a writing other than the writing itself, except in the following cases: (1) When the original has been lost or destroyed; (2) when the original is a record, or other document, in custody of a public officer; (3) when the original is in possession of the party against whom the evidence is offered and the latter fails to produce it after reasonable notice; and (4) when the original consists of numerous accounts or other documents which can not be examined by the court without great loss of time and the fact sought to be established from them is only the general result of the whole.

Acts set forth in a writing.—Where any official paper sets forth acts done, etc., by an officer or enlisted person signing the same or referred to therein, and such acts are material evidence and can be proved by himself in person as a witness, his testimony, as being the best evidence of the facts, should be resorted to instead of the writing.

Official papers prima facie evidence.—Official papers, other than judicial records, acts of state, and public books and records required by statute to be kept, furnish not conclusive but only *prima facie* evidence of the facts therein recited.

VAR. 3. The official prosecutor produced an attested copy of a document (letter, order, etc.) (or properly authenticated copy), the original of which he informed the court could not be produced, as it was lost (part of a permanent record; on official file, etc.), and submitted it to the accused and the court and offered it in evidence.

Sec. 882, R. S.—"Copies of any books, records, papers, or documents in any of the executive departments, authenticated under the seals of such departments, respectively, shall be admitted in evidence equally with the originals thereof." The words "documents" and "papers" can not be held to mean every document or paper on file, but only such as were made by an officer or agent of the Government in the course of his official duties.

Documentary evidence ruled out.—When documentary evidence is ruled out, it need not be appended to the record, but its contents shall be referred to, so that the reviewing authority may know what the document was.

* * * * *

The official prosecutor informed the court that Seaman S—— A. D——, an essential witness, was too ill to appear in the court room and asked the court to adjourn to ——, where he was. The medical certificate was read and appended, marked "——."

The court was cleared. When opened all parties to the trial entered, and the president announced that the court would adjourn to —— in compliance with the request of the official prosecutor.

The court and all parties to the trial assembled at ——, where the witness was in bed (or as the case may be). Present: Etc.

Seaman S—— A. D—— was duly sworn. (Insert testimony.)

The witness verified his testimony and was duly warned.

All parties to the trial returned to the U. S. Coast Guard cutter *Winona*, Mobile, Ala., where the court reassembled. Present: Etc.

VAR. 1. The court adjourned to meet to-morrow, ——, at — o'clock — m., on the U. S. Coast Guard cutter *Winona*, Mobile, Ala.

VAR. 2. (If examination is not completed.) The court adjourned to meet to-morrow, ——, at — o'clock — m., at this the place of adjournment.

The official prosecutor informed the court that Third Lieut. R—— R. B——, U. S. Coast Guard, a material witness, who had been summoned by the president, had failed (refused) to comply with the summons. A duplicate of the summons was appended to the record, marked “——.” The president notified the convening authority of the facts in the case. The court adjourned until —— to await the action of the convening authority.

(In case of a *nolle prosequi*.) The official prosecutor informed the court that by direction of the convening authority he entered a *nolle prosequi* as to the —— specification of the —— charge and as to the —— charge. A *nolle prosequi* was entered. (If accused is not present, add, “and the accused informed.”) The letter from the convening authority is appended, marked “——.”

(23) The prosecution rested.

(24) The defense began.

The accused was, *at his own request*, duly sworn as a witness in his own behalf and testified as follows:

Accused as witness.—The law provides that the accused shall, *at his own request but not otherwise*, be a competent witness, and shall be allowed to testify in his own behalf; and his failure to make such request shall not create any presumption against him.

Must be no comment on failure of accused to testify.—Any comment at any time, especially hostile comment, on the failure of the accused to request that he be allowed to testify in his own behalf is highly improper. “The minds of the jury can only remain unaffected from this circumstance by excluding all reference to it.”

Evidence for the defense.—This is taken, recorded, and verified in the same manner as for the prosecution.

Examined by the president:

Preliminary questions to witness for defense.—The witnesses for the defense will first be questioned by the president for the purpose only of determining the identity of such witnesses and to establish whether or not they recognize the accused.

1. Q. What is your name, rank (rating), and present station?

A. * * *

2. Q. Are you the accused in this case?

A. * * *

Examined by the accused (counsel):

3. Q. * * *

A. * * *

Cross-examined by the official prosecutor:

11. Q. * * *

A. * * *

Testimony of the accused.—When the accused testifies he occupies no exceptional status nor has he any special privileges. When he takes the stand he is subject to cross-examination like any other witness.

Rules governing testimony of accused.—The testimony of the accused is not excepted from the ordinary rules governing the admissibility of evidence, nor from the usual tests of cross-examination, rebuttal, etc.

Examined by the court:

19. Q. * * *

A. * * *

The witness verified his testimony and then resumed his seat as the accused.

A witness for the defense entered and was duly sworn.

Examined by the president:

1. Q. What is your name, rank (rating), and present station?

A. * * *

2. Q. As whom do you recognize the accused?

A. * * *

Examined by the accused (counsel):

3. Q. * * *

The witness requested permission to refresh his memory from a memorandum.

By whom request may be made.—This request may be preferred by the examiner or by one of the parties to the trial.

Character of memorandum.—A witness may be permitted to refresh his memory from memoranda made by himself, or under his direction, at any time when the facts therein stated were fresh in his mind, provided that after his memory is thus stimulated he can testify from a present recollection either (1) that the statements made in the memoranda are true, or (2) that the memoranda when made recorded the facts and have not been subsequently altered in any material particular.

Memorandum positively testified to.—A document used to refresh memory is admissible in evidence if positively testified to, especially in case (2) above.

May be inspected by opposite party.—The party against whom documentary evidence is adduced has a right to inspect it before it is read or shown to the court. Should the opposite party in any case wish to question the witness as to the memorandum and as to the time and circumstances under which it was made, such an examination is proper, and the following form may be used:

VAR. Examined by official prosecutor:

4. Q. When was this memorandum made?

A. * * *

5. Q. Under what circumstances was it made?

A. * * *

Examined by accused (counsel):

6. Q. * * *

A. * * *

Cross-examined by official prosecutor:

9. Q. * * *

A. * * *

The witness's request was granted and, after inspecting the memorandum, he continued his testimony.

A. * * *

VAR. The witness stated that he could not remember the facts.

(In case of improper language or behavior of the witness.)

The president cautioned the witness as to his language (behavior).

Request as to caution.—The caution may be given at the request of a member, the official prosecutor, or on the president's own initiative.

The witness replied (here give reply).

Satisfactory reply.—If the reply of the witness is satisfactory the proceedings for contempt may be ended here.

The court was cleared. When opened all parties to the trial entered, and the president announced that the court deemed the witness, H—— A. H——, guilty of contempt of court in that he (here insert the occurrence in full).

The court informed the witness that he was at liberty, by such proper statement as he might think necessary, to show cause why charges and specifications should not be preferred against him.

Insisting that language was proper.—A witness can not purge himself of contempt by insisting that his language or behavior was proper.

The witness stated ——.

The court was cleared. When opened all parties to the trial entered and the president announced that the court having judged the witness guilty of contempt in its presence, charges and specifications would be preferred against him. (*Or*, announced that the witness had purged himself of contempt.)

The testimony of the witness was continued.

Continuation of testimony.—The testimony of a witness who has been guilty of contempt may be continued.

By the official prosecutor:

23. Q. * * *

A. * * *

* * * * *

The witness verified his testimony, was duly warned, and withdrew.

A witness for the defense as to character (or, in extenuation) entered, was duly sworn, and testified as follows: (Testimony recorded as previously indicated.)

Evidence of good character.—"Evidence of good general character as possessed prior to the commission of the alleged offense may be introduced by the accused as part of his defense, provided the character shown is of such a nature that it may properly weigh with the court in determining the issue involved in the case;" as a general reputation for sobriety when charged with drunkenness, or for obedience when charged with disobedience. "When offered, such evidence must be as to general character; particular acts of good conduct are not admissible."

Character evidence in military cases.—In military cases character evidence is usually intended partly, or principally, in mitigation of the punishment which may follow on conviction. "Thus offered, it is not subject to the rules which restrain the scope and quality of such testimony when defensive only. It need not be limited to general character only, but may include particular acts of good conduct, bravery, etc. It need have no reference to the nature of the charge, but may exhibit the reputation, or record, of the accused in the service for efficiency, fidelity, subordination, temperance, courage, or any of the traits that go to make a good officer or soldier."

* * * * *

R—— A. B——, a witness for the defense, was recalled and having been warned that the oath previously taken by him was still binding, testified as follows: (Testimony recorded as previously indicated.)

Introduction of testimony out of regular order.—The court may, in the interest of justice, allow evidence to be introduced out of the regular order and may, for satisfactory cause, allow the prosecution or defense to introduce evidence at any time before arriving at its findings thereon, but it shall not thereafter receive any new evidence except that of previous convictions.

* * * * *

(Should the accused desire that his enlistment contract and record be produced for the purpose of showing his previous record, good conduct, or other facts, he may call the legal custodian thereof as a witness for such purpose.)

(25) The defense rested.

(26) The rebuttal began.

* * * * *

Object of rebuttal.—During the rebuttal evidence may be introduced by the prosecution to explain or repel the evidence introduced by the defense. In general, anything may be given as rebutting evidence which is a direct reply to that produced by the other side. The official prosecutor may rebut any new matter by evidence in rebuttal, may impeach the testimony of witnesses for the defense, may sustain the credibility of his own witnesses, etc.

Evidence in rebuttal.—The evidence here introduced should, in general, be confined to such as relates to evidence introduced by the defense.

Impeaching a witness.—A witness may be impeached (1) by disproving the facts testified to by him; (2) by proof of contradictory statements previously made by him as to matters relevant to his testimony and to the case; and (3) by evidence as to his general bad character.

Procedure before contradictory statements can be proved.—Before contradictory statements of a witness can be proved against him, his attention must be called with as much certainty as possible to the time, place, attendant circumstances, and the person to whom made. If the previous statement was in writing, it must be shown or read to him unless the absence of the writing is accounted for.

Foundation for impeachment.—To lay the foundation, the witness may be recalled at any time. It is not necessary to lay the foundation when the previous statement was made under oath and recorded before an official lawfully empowered to administer an oath.

Questions to impeaching witness.—The impeaching witness may be asked as to his knowledge of the general character of the witness whose testimony is to be impeached; as to the latter's general character, but particular transactions or opinions can not be inquired into except in seeking for the extent and foundation of the witness's knowledge; as to whether he would believe the latter under oath; and, when desired, he may be asked as to the extent and foundation of his knowledge. These questions are asked only when it is attempted to impeach by evidence of general bad character.

Former witness sustained.—A former witness may be sustained by proving general bad character of the impeaching witness. If impeached by proof of contradictory statements, he may be sustained by proof of general good character, the effect of the evidence to be determined by the court.

Relationship of witness.—The state of the feelings of the witness and his relationship to the parties may always be proved for the consideration of the court.

Exceptions as to impeachment of one's own witness.—A party may not impeach the credibility of a witness whom he calls except (1) when the witness appears to be hostile to the party that calls him; (2) when the party that called him had no option, but was compelled to do so; and (3) when the party that called him is unduly surprised at the evidence elicited.

Answers to irrelevant or collateral matters.—The answers of a witness to irrelevant or collateral matters is conclusive against the party asking the question, who will not be allowed to impeach the witness as to such answers.

The rebuttal ended.

(27) The surrebuttal began.

* * * * *

Object of surrebuttal.—The defense is accorded an opportunity in the surrebuttal to overcome matters brought out in the rebuttal. The evidence should, in general, be confined to matters brought out in the rebuttal, i. e., the defense here endeavors to sustain its original evidence.

The surrebuttal ended.

The court adjourned to meet ———.

P. Q. R. ———,

Third Lieutenant, U. S. Coast Guard, Recorder.

THIRD DAY.

U. S. COAST GUARD CUTTER WINONA,
Mobile, Ala., Wednesday, June 28, 1916.

The court met at — a. m.

Present: All the members, the recorder (if not a member), the stenographer, the official prosecutor, the accused, and his counsel.

No witnesses were present.

The record of proceedings of yesterday (or Saturday) was read and approved.

(28) The accused submitted his written defense, and the court was cleared to examine it.

VAR. 1. The accused requested a delay until ——— to prepare his written statement (argument). The request was granted, and the court adjourned to meet ——— at — o'clock a. m.

VAR. 2. The accused did not desire to make a statement, and submitted his case to the court.

VAR. 3. The accused offered in bar of judgment the following plea (same as under plea in bar of trial).

VAR. 4. The court desired further testimony and directed the recall of ——— (or, that ——— be recalled).

Written or oral defense.—The accused shall be at liberty to make his defense in writing, or, if an official stenographer be present, orally, either in person or by counsel. This defense, if written, he shall submit to the court for inspection before it is publicly read, and if it contains anything improper or disrespectful the court may prevent that part from being read; but the whole shall be appended to the record, or entered as a part of the proceedings, if the accused desires it, and he shall be held responsible for the same.

Statement may be withdrawn.—The court may permit a written statement, or argument, to be withdrawn in whole or in part before it is read aloud.

Omission of objectionable matter.—Unless the accused omits the words which the court decides must not be read, the statement shall not be allowed to be read, but it may, nevertheless, be appended.

Statement is personal defense.—The statement of the accused is a personal defense or declaration and can not legally be acted upon as evidence by the court, nor can it be a vehicle of evidence or properly embrace documents or other writings, or even averments of material facts which, if duly introduced, would be evidence; and if such are embraced in it they are no more evidence than any other part. It has a threefold function: First, as a modification of the plea, which must be considered by the court; second, as a summing up and closing argument for the defense, which may be considered by the court; and third, as a plea for leniency, which may not be considered by the court except in recommending the accused to the clemency of the reviewing authority.

Judicial cognizance of statement.—Any averments or facts embraced in the statement may, of course, be proved by testimony, but unless so proved it is not within the province of the court to take judicial cognizance of them in determining the culpability or innocence of the accused. It is irregular and improper to have the statement sworn to.

Oral argument.—When a stenographer is employed both the accused (counsel) and the official prosecutor may make oral arguments.

When opened, all parties to the trial entered, and the accused was informed that the court was ready to hear his written defense, which was read by him (his counsel), and appended, marked "———."

VAR. 1. ——— was ready to hear the argument on the part of the defense.

VAR. 2. When opened, all parties to the trial entered, and the president announced that omitting the words "———," the accused might read his written defense. (Here give reason for this action.)

The accused not desiring to omit the said words, the court decided that the statement should not be read, and it was appended, marked "———." (Or, the accused requested permission to withdraw his written defense.)

(29) The official prosecutor submitted the case to the court without remark.

VAR. 1. The official prosecutor read his reply, marked "———." (Or made the following argument.)

VAR. 2. The official prosecutor requested a delay until —— to prepare his reply, etc.

When argument must be written.—Unless the clerk or reporter is a stenographer the arguments must be written before delivery.

Closing argument.—The official prosecutor is entitled to the closing argument.

Character of arguments.—A very considerable degree of latitude is allowed in the closing arguments. The testimony and the apparent, or supposed, animus of the witness; the conduct motives, and especially any evidence of malice on the part of those responsible for the prosecution may be sharply criticized.

(30) The trial was finished.

Evidence may be introduced before finding.—The court may, in the interest of justice, allow evidence to be introduced out of the regular order and may, for satisfactory cause, allow the prosecution or the defense to introduce evidence at any time before arriving at its findings thereon, but it shall not thereafter receive any new evidence except evidence of previous convictions.

(31) The court was cleared.

Court examines evidence.—When the court has sufficiently examined the evidence, the president of the court shall put the question upon each specification of each charge, beginning with the first, whether the specification is "proved," "not proved," or "proved in part."

Manner of voting.—Each member shall write "proved," "not proved," or "proved in part," and if "in part," what part, over his signature, and shall hand his vote to the president of the court, who, when he has received all the votes on such specification, shall read them aloud, being careful not to disclose whose vote he is reading.

No minute of votes.—No written minute of the votes shall be preserved.

Agreement must be reached.—The court shall deliberate and consider until a majority agrees upon a finding, which shall then be recorded.

When accused pleads guilty.—When the accused has pleaded guilty, the proper finding is, for the specification, "proved by plea," and for the charge, simply "guilty."

Detained by civil authorities.—Where an accused is charged with absence without leave and upon his trial by court for the offense it is proved that such absence was solely due to his arrest and detention on shore by the civil authorities, which detention is followed by an acquittal in the civil court, the accused should be acquitted by the Coast Guard court. If, however, the absence was caused by the misconduct of the accused, as evidenced by a conviction in the civil courts, such facts do not constitute a legal defense to the unauthorized absence. Distinction should be made between a defense constituting a legal excuse and such matters as are merely in extenuation of the offense.

Voting upon charge.—When the members have voted upon all the specifications of any charge, the question shall be put upon the charge to each member: "Is the accused guilty of this charge, guilty in a less degree than charged, or not guilty?" The members, as before, shall write "guilty," "not guilty," or "guilty in a less degree than charged," and in what degree, over their signatures, and hand their votes to the president, who shall, after receiving all the votes, read them aloud, and should there be a decision by a majority, shall record the result. If otherwise, the process shall be repeated until a decision is arrived at.

All charges must be voted on.—The president in collecting the votes must bear in mind that the court is bound to exhaust the whole of the charges that come before it by expressly acquitting or convicting the accused of each allegation contained in the specification.

(32) The recorder (if not a member) was recalled and directed to record the following findings:

The first specification of the first charge, "Proved" ("Not proved").

The second specification of the first charge "Proved" ("Not proved") ("Proved in part—proved except the words '———', which words are not proved, and for which the court substitutes the words '———', which words are proved").

And that the accused, Second Lieut. A——— B. C———, U. S. Coast Guard, is of the first charge "Guilty" ("Not guilty") ("Guilty in a less degree than charged, guilty of ——").

The specification of the second charge "Proved" ("Not proved") ("Proved in part—proved except the words '———', which words are not proved").

And that the accused, Second Lieut. A——— B. C———, U. S. Coast Guard, is of the second charge "Guilty" ("Not guilty").

The specification of the third charge, "Not proved" ("Proved") ("Proved in part, etc.").

And that the accused, Second Lieut. A——— B. C———, U. S. Coast Guard, is of the third charge "Not guilty"; and the court does therefore acquit (fully acquit) (most fully acquit) (honorably acquit) (most honorably acquit) (most fully and honorably acquit) the said Second Lieut. A——— B. C———, U. S. Coast Guard, of the third charge.

Writing the finding.—When the members of the court have voted upon all the charges, if the accused has been found guilty, or guilty in a less degree than charged, upon any one of them, or not guilty, by the number of members which the law may require in any particular case, the recorder shall be directed to record its finding, which he shall do under the court's direction, specifying precisely how far the accused has been found guilty of each charge, and shall enter the same, without erasure or interlineation, on the record in his own handwriting. After the findings have been recorded the court shall be opened with all the parties to the trial present, and the official prosecutor (recorder) shall be permitted to introduce evidence of previous convictions, and, in the case of an enlisted person, extracts from his conduct record, showing punishments imposed by proper authority.

When finding is "Not guilty."—In case the finding is "Not guilty" upon any charge, the explicit statement shall immediately follow that the court acquits the accused of such charge.

(33) The court was opened and all parties to the trial entered. The president announced that the court was ready to receive evidence of previous convictions (and extracts from the conduct record showing punishments imposed by proper authority).

(34) The official prosecutor stated that he had evidence of previous convictions.

VAR. ——— that he had no evidence of previous convictions.

To what such evidence must relate.—Evidence of previous convictions must refer to actual trials and convictions that have been approved by the authorities whose action is requisite to give full effect to the sentence, except in cases upon which action has been withheld and the accused placed on probation. Evidence of previous convictions, and extracts from conduct records showing punishments imposed by commanding officers, must relate to the current enlistment of the accused, except when the last enlistment was terminated by sentence of a court or by discharge as undesirable by order of the proper authority, in which cases all convictions occurring in the prior enlistment thereby terminated are admissible. In the cases of persons serving under extended enlistments, convictions occurring prior to the expiration of the one-year term of enlistment, or prior to the current extension of such enlistment, shall not be considered as having occurred during their current enlistment.

Special orders relating to general courts.—When properly certified at Headquarters as a true copy, the printed special order relating to a previous conviction is *prima facie* evidence of its contents.

How such evidence introduced.—Evidence of previous convictions, if objected to by the accused, should be introduced in the same manner and is subject to the same rules as other evidence; it is usually documentary, and is generally forwarded by the convening authority to the official prosecutor (president) with the other papers in the case; if not objected to it may be introduced as follows:

There being no objection, the official prosecutor (recorder) read from the (current) enlistment contract and record of ——— (the accused) an extract showing previous conviction, copy appended, marked “——.”

Extract to be read.—The extract should include the offense committed, the fact and nature of trial, conviction, sentence, and approval by the proper authorities.

VAR. There being no objection, the official prosecutor (recorder) presented to the court special order No. ———, dated ———, 1916, in the case of the accused.

(35) The court was cleared.

Official record of accused.—In arriving at its decision as to the nature and degree of punishment to be awarded, the court shall, if the accused be an officer, take into consideration its finding, all previous convictions of the accused, and his official record. If the accused be an enlisted person, all matters affecting his record must relate to his current enlistment.

Punishment to be adjudged.—It is the duty of general courts, in all cases of conviction, to adjudge a punishment adequate to the nature and degree of the offense committed.

Each member to vote.—When the court has been closed, each member shall write down and subscribe the measure of punishment which he may think the accused ought to receive, and hand his vote to the president, who shall, after having received all the votes, read them aloud.

If agreement not reached.—If the requisite number shall not have agreed upon the nature and degree of the punishment to be inflicted, the president shall proceed in the following manner to obtain a decision:

Begin with mildest punishment.—He shall begin with the mildest punishment that has been proposed, and after reading it aloud shall ask the members successively, beginning with the junior in rank: "Shall this be the sentence of the court?" and every member shall vote, and the president shall note the votes.

Vote on other punishments.—Should there be no decision, the president shall, in the same manner as before, obtain a vote on the next higher punishment, and shall so continue until some sentence, either of the first or of a subsequently proposed set, shall be decided upon.

Majority rules.—The opinion of the majority is the opinion of the court, and the minority is bound thereby; but as the oath taken by every member provides for the concealment of the vote or opinion of each particular member, care shall be taken that it does not appear on the record either that the votes of the members in regard to the finding or sentence were unanimous, or what number of them voted for any particular finding or sentence.

Coast Guard courts must not adjudge nominal punishments.—The law does not vest in Coast Guard courts the pardoning power, nor the right to adjudge nominal punishments equivalent to a pardon; such powers are elsewhere reposed, and the exercise thereof by a Coast Guard court is illegal.

(36) The recorder (if not a member) was recalled and recorded the sentence of the court as follows: The court, therefore, sentences him, Second Lieut. A—— B. C——, U. S. Coast Guard, to be dismissed from the United States Coast Guard.

D. E. F——,

First Lieutenant, U. S. Coast Guard, President.

G. H. I——,

First Lieutenant of Engineers, U. S. Coast Guard, Member.

J. K. L——,

Second Lieutenant, U. S. Coast Guard, Member.

P. Q. R——,

Third Lieutenant, U. S. Coast Guard, Recorder.

VAR. 1. The court therefore sentences him, —— ———, U. S. Coast Guard, to be dismissed from the United States Coast Guard and to be imprisoned in such prison or penitentiary as the Secretary of the Treasury may designate for a period of two (2) years.

VAR. 2. The court therefore sentences him, —— ———, U. S. Coast Guard, to be dishonorably discharged from the United States Coast Guard.

VAR. 3. The court therefore sentences him, —— ———, U. S. Coast Guard, to be imprisoned on land in such place as the Secretary of the Treasury may designate for a period of nine (9) months, then to be dishonorably discharged from the United States Coast Guard; to forfeit all pay now due and that may become due him to date of imprisonment, excepting the sum of ten dollars and forty-five cents (\$10.45), the amount of his indebtedness for clothing drawn.

VAR. 4. The court therefore sentences him, —— ———, U. S. Coast Guard, to be imprisoned on land in such place as the Secretary of the Treasury may designate for a period of nine (9) months, then to be dishonorably discharged from the United States Coast Guard; to forfeit the sum of fifty

dollars (\$50) from pay now due or that may become due him to date of imprisonment.

VAR. 5. The court therefore sentences him, _____, U. S. Coast Guard, to forfeit two (2) months' pay, amounting to seventy-six dollars and eighty cents (\$76.80).

Recorder (if not a member) to be recalled to record the sentence.—When a sentence has been determined upon, the recorder (if not a member) shall be called before the court and, under its direction, shall draw up the sentence, specifying the exact nature and degree of punishment adjudged and, after approval by the court, shall enter the same upon the record.

Manner of recording sentence.—The sentence, including the name and rank (rating) of the accused, must be recorded in the recorder's own handwriting and must be free from interlineations and erasures. Numbers in the sentence shall be expressed both by words and figures.

Authentication of sentence.—The sentence having been recorded, the proceedings in each separate case tried by the same court shall be signed by all the members and by the recorder when not a member. When the recorder is a member he shall sign in his dual capacity as member and recorder.

Sentencees to forfeiture of pay and suspension.—Sentences which include reduction of pay shall, in the case of commissioned officers, state the rate of pay and time of such reduction. Those including suspension must state distinctly that it is suspension from duty.

Loss of numbers.—When an officer's position on the official register of the Coast Guard will not permit of his being reduced a sufficient number of files, the court shall award a sentence retaining him in his present number on the official register for a specified time.

Dishonorable discharge.—In all cases in which the sentence imposed upon a warrant officer or enlisted person involves imprisonment, the sentence should include dishonorable discharge at the expiration of the term of imprisonment.

Forfeiture of pay due.—It is competent for a general court to decree forfeiture of all pay due or that may become due to date of imprisonment except that for clothing drawn, provided such forfeiture does not exceed two months' pay.

Desertion.—In all cases of desertion the sentence shall include dishonorable discharge and forfeiture of pay which is due or which may become due to date of imprisonment, except that for clothing drawn, provided such forfeiture does not exceed two months' pay.

Sentence distinct.—A sentence of imprisonment must express distinctly for what period the same shall continue.

Whenever a court imposes a sentence of confinement on bread and water, the provisions of the Coast Guard regulations relating thereto shall be observed.

Minor court punishments.—General courts are empowered to inflict any of the punishments authorized for minor courts.

In consideration of (here state reason), we recommend Second Lieut. A——— B. C———, U. S. Coast Guard, to the clemency of the reviewing authority.

G. H. I———,

First Lieutenant of Engineers, U. S. Coast Guard, Member.

J. K. L———,

Second Lieutenant, U. S. Coast Guard, Member.

Clemency.—If mitigating circumstances have appeared during the trial which could not be taken into consideration in determining the degree of guilt found by the verdict, the court may avail itself of such circumstances as adequate grounds for recommending the accused to clemency.

Recommendation.—This recommendation is not to be inserted in the body of the sentence, but recorded, with the reason therefor, immediately after the signatures of the court and the recorder to the sentence, and must be signed by the members concurring in it.

Different reasons.—If the members do not agree as to the reasons, different recommendations may be entered, the members acting independently of each other.

(37) The court was opened and proceeded with the trial of

D. E. F——,

First Lieutenant, U. S. Coast Guard, President.

P. Q. R——,

Third Lieutenant, U. S. Coast Guard, Recorder.

VAR. 1. The court adjourned to meet to-morrow, —— (on Monday next) at — o'clock a. m. (Signed as above.)

VAR. 2. The court, having no more cases before it, adjourned to await the action of the convening authority. (Signed as above.)

VAR. 3. The court adjourned to await the call of the president. (Signed as above.)

Presence of accused during subsequent reading of record.—If the court adjourns after arriving at a finding and sentence (or acquittal) or before completing the case, the record of proceedings of the succeeding day should distinctly show that the accused was present during the reading of so much thereof as referred to the proceedings in open court, that he then withdrew, and that the court was then cleared, the recorder remaining, whereupon that part of the record which pertained to the proceedings in closed court was read.

Disposition of convening order.—When the court is dissolved, the original convening order shall be forwarded to the convening authority.

RECORD OF PROCEEDINGS IN REVISION
OF A
GENERAL COAST GUARD COURT
CONVENED ON BOARD
U. S. COAST GUARD CUTTER WINONA

AT MOBILE, ALA.,

BY ORDER OF THE
SECRETARY OF THE TREASURY.

CASE OF
SECOND LIEUT. A——— B. C———, U. S. COAST GUARD.

JULY 5, 1916.

(Variations same as in original.)

Record in revision.—The proceedings in revision must form a separate and complete record, which should be *prefixed* to the record of which it is a revision.

RECORD OF PROCEEDINGS IN REVISION OF A GENERAL COAST
GUARD COURT.

(Order from the convening authority returning record to the court for revision.) (A)

U. S. COAST GUARD CUTTER WINONA,
Mobile, Ala., Wednesday, July 5, 1916.

The court reconvened at 10 a. m., pursuant to an order hereto prefixed, marked "A," which was read by the recorder.

Present: (Here insert names.)

No new testimony.—When a court is ordered to revise its proceedings new testimony shall not be brought forward in any shape.

Confined to record.—The revision shall be strictly confined to a reconsideration of the matter already recorded in the proceedings, no part of which shall be amended, altered, or annulled in any way.

Record of revision.—During the revision an entirely separate record shall be kept, to which the order for reassembling must be prefixed. A full entry shall be made of all proceedings, verified in the ordinary manner by the signatures of all the members of the court and the recorder, and transmitted, as before, to the reviewing authority for his action.

Recorder (if not a member) excluded.—The recorder (if not a member) shall be excluded from the court room during a revision of the finding and sentence of the court.

Presence of accused.—It is not in general necessary or desirable that the accused be present at a revision. Where, however, any possible injustice may result from his absence, he should be required or permitted to be present, and with counsel, if preferred. Thus, where the defect to be corrected consists in an omission prop-

erly to set forth a special plea made or objection taken by the accused, it may be desirable that he should be present in order that he may be heard as to the proper form of the proposed correction. Where the error is clerical merely, or, though relating to a material particular, consists in the omission of a formal statement only, the presence of the accused is not, in general, called for.

Clerical errors.—Clerical errors are not to be corrected in an informal manner by erasure or interlineation.

Quorum present.—A correction can be made only by a legal court. At least three members who acted upon the trial must be present. The recorder must be present, except during a revision of the finding and sentence.

The court was cleared.

The recorder (if not a member) was recalled and directed to record that the court decided to revoke its former (finding) sentence in the case of Second Lieut. A—— B. C——, U. S. Coast Guard, and to substitute therefor the following sentence: ————.

(Signed by all the members and the recorder (if not a member).)

Corrections made, how.—All corrections, modifications, or substitutions in the finding or sentence must be in the handwriting of the recorder.

VAR. 1. ——— and to substitute therefor the following finding:

The specification proved in part, proved except, etc. The court respectfully adheres to its former sentence.

VAR. 2. ——— decided respectfully to adhere to its former finding (or, finding and sentence; or, sentence).

VAR. 3. ——— decided to correct the following clerical errors:

(a) On page ———, by inserting between lines 10 and 11 the following: “———.”

(b) On page 9, by omitting from lines 16 and 17 the following: “———.”

(c) On page 20, by omitting the words “——— ———,” lines 5 to 9, inclusive, and substituting therefor the words “——— ———.”

The court took up the next case. •

VAR. 1. ——— adjourned to await the action of the convening authority.

VAR. 2. ——— adjourned to meet to-morrow (on Monday next) at — o'clock a. m.

VAR. 3. ——— proceeded with the trial of ——— ———.

(Signed by the president and the recorder.)

Upon revision.—While the reviewing authority can not compel the court to adopt his views in regard to a supposed defect, he may, in a proper case, express his formal disapproval of their neglect to do so. Where a court adheres to a sentence manifestly too lenient for the offense found, upon being reassembled to consider reasons presented by the reviewing authority for the infliction of a severer penalty, it is within the authority of the latter and would be no more than proper and dignified for him, in taking final action on the case, to reflect on the refusal of the court as ill-judged and as having the effect to impair the discipline and prejudice the interests of the service.

Letters of transmittal not required.—Letters of transmittal are not required in forwarding records of proceedings of courts or boards, and should not be sent.

FORM OF AGREEMENT BETWEEN THE PRESIDENT AND STENOGRAPHER.

_____,
_____, 1916.

I propose to do the necessary stenographic work in the general Coast Guard court (board of inquiry, etc.) to be convened at _____, on the ____ day of _____ (now in session at _____), for the trial of _____ (or as the case may be), for _____ cents per folio of _____ words (or, for \$____ per diem), and to copy such matter as may not be taken stenographically for ____ cents per folio.

Should additional service, other than that herein specified, become necessary, a new agreement for such service at not more than market rates therefor will be made.

_____,
Stenographer.

The above proposal is accepted.

_____,
(Rank) *President.*

Agreement in duplicate.—This agreement must be made in duplicate, one copy to be retained by the stenographer and the other attached to the voucher for services when such services have been performed.

SUMMONS FOR COAST GUARD WITNESS.

GENERAL COURT ROOM,
U. S. COAST GUARD CUTTER _____,
New York, N. Y., June 26, 1916.

Senior Captain G_____ C. N_____, U. S. Coast Guard,

Commanding New York Division, Barge Office, New York, N. Y.

You are hereby summoned to appear before a general Coast Guard court on the U. S. Coast Guard cutter _____, Tompkinsville, N. Y., at 10 o'clock a. m., June 28, 1916, as a witness for the prosecution (defense) in the case of Second Lieut. A_____ B. C_____, U. S. Coast Guard.

When discharged, return to your present station and duties.

Respectfully,

D_____ E. F_____,
Captain, U. S. Coast Guard, President.

(Certified copy of summons or request appended to record.)

Travel expense involved.—Should travel expense be involved and the presence of the person be necessary, the president shall notify Headquarters of the facts.

Civilian witnesses.—There is no authority of law to compel persons unconnected with the public service to appear before a court as witnesses. The president of a court may request in writing such persons to appear and testify, but their attendance would be voluntary.

**LETTER INFORMING CONVENING AUTHORITY THAT COURT HAS FINISHED
ALL BUSINESS BEFORE IT.**

GENERAL COURT ROOM,
U. S. COAST GUARD CUTTER WINONA,
Mobile, Ala., June 30, 1916.

CAPTAIN COMMANDANT, U. S. COAST GUARD,
Washington, D. C.

Subject: Adjournment of general court.

SIR: I have the honor to inform you that the general Coast Guard court of which I am president has finished all the business before it and has adjourned to await the action of the convening authority.

Respectfully,

D——— E. F———,
Captain, U. S. Coast Guard, President.

MINOR COURT.

MINOR COAST GUARD COURTS.

NOTES CONCERNING MINOR COAST GUARD COURTS.

1. Minor courts are for the trial of enlisted persons exclusively.

2. They are convened by the commanding officer of a vessel when the offenses are deemed deserving of greater punishment than he is empowered to inflict under article 2033, paragraph b, of the regulations, United States Coast Guard, but not sufficiently grave to require trial by a general court. When the circumstances require it a minor court will be convened by the captain commandant.

3. The court shall be composed of three commissioned officers, and when convened by a commanding officer of officers under his command. The senior member of the court shall be the president and the junior member the recorder. The junior member shall sign the findings and sentence as "member and recorder," but shall authenticate all papers as "recorder."

4. The convening order shall be addressed to the officer who is to be the president, stating the name and rank of each of the members of the court, the time and place of meeting, the name and rating of the person to be tried, adding "and of such other persons as may legally be brought before it."

5. In alleging an offense for trial before a minor court it must be remembered that the court can not impose a sentence involving imprisonment on land or forfeiture of more than one month's pay. The offense of desertion can not be tried by a minor court. With the above limitations a minor court has the same jurisdiction as a general court in cases of offenses committed by enlisted persons.

6. Each charge preferred against the accused must allege an offense of which the court is, by law, authorized to take cognizance. The charge therefore must be one of the offenses designated in the table in article 2221 of the regulations, United States Coast Guard. Charges and specifications shall be signed by a commissioned officer and a copy furnished the accused at least 24 hours before the court assembles, and a note of that fact entered in the log.

7. The record of proceedings should be typewritten, with the exception of the findings and sentence, and should be recorded on paper 8 by 10½ inches.

8. The president shall summon the witnesses; the recorder shall administer the oaths to them.

9. Questions asked a witness shall be numbered consecutively. If examination is interrupted by recess or adjournment and resumed when court reassembles, the numbering shall be continued in sequence. If a witness is later recalled, the numbering shall begin anew.

10. The proceedings shall be conducted with as much conciseness and precision as may be consistent with the ends of justice and substantially in accordance with the practice of general courts, and the procedure and rules of evidence provided for such courts shall be observed by minor courts, except as prescribed in article 2280 of the regulations, United States Coast Guard.

INCIDENTS OF A TRIAL BY MINOR COURT.

1. Court meets in closed session.
2. Court opened; clerk introduced.
3. Accused introduced.
4. President asks accused if he desires counsel, and if so, counsel introduced.
5. Recorder reads aloud the convening order.
6. President asks accused if he objects to any member of the court.
7. Members duly sworn.
8. Clerk sworn by recorder.
9. President asks accused if he has received copy of charges and specifications, and if so, when.
10. Court cleared to examine charges and specifications.
11. Court opened; president announces decision relative to charges and specifications.
12. President asks accused if he is ready for trial.
13. President directs all witnesses to withdraw.
14. Recorder reads aloud the charges and specifications; president arraigns the accused.
15. Prosecution begins.
16. Prosecution rests.
17. Defense begins.
18. Defense rests.
19. Rebuttal.
20. Surrebuttal.
21. Trial finished.
22. Court closed for deliberation on finding.
23. Recorder records finding.
24. Court opens; recorder reads evidence of previous conviction, if any, and extracts from conduct record showing punishments.
25. Court closed.

26. Recorder records sentence.
27. Recommendation for clemency, if any.
28. Adjournment, authenticated by president and recorder.

RECORD OF PROCEEDINGS

OF A

MINOR COAST GUARD COURT

CONVENED ON BOARD

U. S. COAST GUARD CUTTER WINONA

AT BOSTON, MASS.,

BY ORDER OF THE

COMMANDING OFFICER

(Captain Commandant.)

CASE OF

SEAMAN J—— B——. U. S. COAST GUARD.

NOVEMBER 30, 1914.

ORDER CONVENING A MINOR COAST GUARD COURT.

Coast Guard Cutter WINONA.

TREASURY DEPARTMENT,
UNITED STATES COAST GUARD,
Boston, Mass., November 15, 1914.

First Lieut. of Engineers A. B. C——. U. S. Coast Guard.
Coast Guard Cutter Winona,
Boston, Mass.

Subject: Convening minor court.

SIR: A minor Coast Guard court is hereby ordered to convene on board this vessel on Wednesday, November —, 19—, or as soon thereafter as practicable, for the trial of Seaman J—— B——. U. S. Coast Guard, and of such other persons as may be legally brought before it.

The court will be constituted as follows:

First Lieut. of Engineers A. B. C——, U. S. Coast Guard;
Second Lieut. D. E. F——, U. S. Coast Guard; and
Third Lieut. G. H. J——, U. S. Coast Guard, members.

Respectfully,

K. L. M——.

Captain, U. S. Coast Guard, Commanding.

Original convening order to be *prefixed* to the record of the first case.

If more than one case is tried by the court, an authenticated copy of the convening order shall be *prefixed* to the record of each other case tried.

(A)

FORM OF CHARGE AND SPECIFICATION.

Charge and specification preferred against Seaman J—— B——, U. S. Coast Guard, November —, 19—, by Captain K. L. M——. U. S. Coast Guard, both attached to and serving on board the Coast Guard cutter Winona.

CHARGE: Absence from duty without leave.

SPECIFICATION: In that J—— B——, a seaman in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter *Winona*, at Boston, Massachusetts, did, at or about nine hours antemeridian, on the —— day of November, nineteen hundred and ——, absent himself from his station and duty without leave from proper authority, and did remain so absent until at or about nine hours and thirty minutes postmeridian, on the —— day of the month and year aforesaid.

K. L. M——,

Captain, U. S. Coast Guard, Commanding.

(ORIGINAL to be *prefixed* to the record.)

Copy delivered accused (here state when).

G. H. J——,

Third Lieutenant, U. S. Coast Guard, Recorder.

(B)

FIRST DAY.

U. S. COAST GUARD CUTTER WINONA,
Boston, Mass., Wednesday, November 30, 1914.

(1) The court met at 10 a. m.

Present: First Lieut. of Engineers A. B. C——, U. S. Coast Guard; Second Lieut. D. E. F——, U. S. Coast Guard; and Third Lieut. G. H. J——, U. S. Coast Guard, members.

Record of each case complete.—The record of every case must be complete in itself, and therefore the place, date, names, and rank of members must be fully set out at the beginning of each case.

VAR. 1. Second Lieut. D. E. F——, U. S. Coast Guard, a member, was absent on account of illness (or other cause), and the court being reduced below the number authorized by law, adjourned until 10 a. m. to-morrow, the —— instant.

VAR. 2. The court, being reduced below the number authorized by law, informed the convening authority to that effect and then took a recess until 11.30 a. m., the same date, when it reconvened. Present: The members last mentioned above, and Third Lieut. N. O. P——. U. S. Coast Guard, appointed a member by the convening authority, vice Third Lieut. G. H. J——. U. S. Coast Guard, relieved.

The court was cleared and the convening order read. After deciding to hold the trial in open (closed) session, the court was opened, and

Preliminary meeting.—The preliminary meeting of the court shall be in closed session, only the members being present. The recorder shall read aloud the convening order and the accompanying instructions, if any. The court shall in closed session decide upon its procedure as to open or closed sessions during the trial.

- (2) The court opened and ———, detailed as clerk, entered.
- (3) The accused entered and
- (4) stated that he did not desire counsel.

VAR. ——— that he desired Second Lieut. R. O. S——, U. S. Coast Guard, as his counsel, and permission having been obtained from proper authority, that officer reported as such.

- (5) The recorder read the convening order, original prefixed hereto and marked "A."

. VAR. 1. ——— copy prefixed and marked "A."

VAR. 2. ——— and an order relating thereto, marked "A1."
(Copy, if Var. 1.)

Reading of papers, etc.—When the record states that a paper or document is read, it is to be understood that it is read aloud.

Composition of court changed.—In case the composition of the court is changed a new precept should be issued.

- (6) The accused stated that he did not object to any member.

VAR. 1. The accused objected to being tried by Second Lieut. D. E. F——, U. S. Coast Guard, for the following reasons, ———.

Second Lieut. D. E. F——, U. S. Coast Guard, replied to the objection as follows ———.

The court was closed for the consideration of the challenge, the challenged member withdrawing.

After due deliberation the court was opened, and all parties to the trial entered. The president announced that the objection was not sustained. The accused had no further objection to offer.

VAR. 2. The accused, etc. (as above).

The president announced that the objection of the accused was sustained, and that the record would be forwarded to the convening authority, pending a reply from whom the court adjourned until to-morrow, the — instant, at — a. m.

VAR. 3. When the court convened (if on a subsequent day), Present: ———, etc.

The recorder read an order appended marked "—" from the convening authority returning the record and directing the court to proceed as originally constituted. The accused had no further objections to offer.

VAR. 4. The recorder read aloud an order from the convening authority appointing Second Lieut. R. S. T——, U. S. Coast Guard, vice Second Lieut. D. E. F——, U. S. Coast Guard, relieved, which order is hereto appended, marked "—." The accused, etc.

- (7) Each member was duly sworn.
- (8) The clerk was duly sworn.
- (9) The accused stated that he had received a copy of the charge and specification against him at — — m., ———, 19—.
- (10) The court was cleared to examine charge and specification.

(11) The court was opened; the president announced decision relative to charge and specification.

(12) The accused stated that he was ready for trial.

VAR. ——— that he desired postponement until ———, for the reason that ———.

(13) No witnesses were present.

VAR. 1. All witnesses were directed to withdraw.

(14) The recorder read the charge and specification, original prefixed and marked "B."

The president arraigned the accused as follows:

Q. You, Seaman J—— B——, United States Coast Guard, have heard read the charge and specification of the charge preferred against you; how plead you to the specification of the charge, guilty or not guilty?

PROCEDURE WHEN PLEA IS GUILTY.

A. Guilty.

Q. And to the charge, guilty or not guilty?

A. Guilty.

The president duly warned the accused as to the effects of his plea, but he persisted therein.

Warning upon plea of guilty.—When the accused pleads guilty, he shall be warned by the president that by so doing he deprives himself of the benefits of a regular defense and can only introduce evidence in extenuation or as to character.

The accused did not desire to offer any evidence in his behalf, or make a statement.

(or)

The accused offered an oral statement in his behalf, in substance as follows: ———.

Oral statement.—The substance of oral statement by the accused is to be recorded, but if the statement is inconsistent with the plea of "guilty" the accused is to be considered as having pleaded "not guilty," and testimony is to be taken in the same manner as if he had offered that plea.

The trial was finished.

PROCEDURE WHEN PLEA IS NOT GUILTY.

A. Not guilty.

Q. And to the charge, guilty or not guilty?

A. Not guilty.

VAR. 1. A. Guilty, except as to the words "———," to which words, not guilty.

VAR. 2. A. Guilty in a less degree than charged; guilty of ———.

VAR. 3. The accused stood mute.

Accused stands mute.—When the accused stands mute, the procedure is the same as if he pleaded not guilty.

(15) The prosecution began.

Accused pleads guilty.—When the accused pleads guilty, the foregoing sentence shall be omitted unless the prosecution offers evidence as to the degree of guilt.

Member as witness.—If a member of the court be a witness for the prosecution, his testimony shall be first taken, and the record shall show that upon the conclusion of his testimony he resumed his status as member.

Recorder as witness.—He shall record his own testimony.

Warning to witnesses.—The president shall warn each witness before giving testimony to testify only to facts within his own knowledge.

A witness for the prosecution entered, was duly sworn, and testified as follows: ———.

VAR. The president (or a member) was called as a witness for the prosecution, and, having been duly sworn, testified as follows:

Examined by the president:

1. Q. What is your name and rating?

A. X—— Y. Z——, master-at-arms, United States Coast Guard, attached to and serving on board the *Winona*.

2. Q. As whom do you recognize the accused?

A. As J—— B——, seaman, United States Coast Guard, serving on the *Winona* at Boston.

3. Q. * * *

A. * * *

Cross-examination by the accused (counsel):

4. Q. * * *

A. * * *

Counsel.—When the accused has counsel, the latter conducts the defense, and the accused can not, without permission of the court, examine witnesses or address the court.

No counsel.—When the accused has no counsel, the court through the president shall see that all the relevant facts for his defense are brought out and shall prevent the accused from advancing anything tending to incriminate him or prejudice his case. It must be remembered that the object of the court is to ascertain all the relevant facts. The court will therefore examine the witness as much to find out whether there are any mitigating or extenuating circumstances as to find out whether the accused is culpable.

Facts.—The examination in chief by the president is confined to facts in issue; that is, the allegation in the charges and specifications.

Cross-examination.—The cross-examination is as to the facts brought out in the direct examination. The object of the cross-examination being to test the credibility of the witness, more latitude is allowed than in the direct examination.

Redirect.—The redirect and recross examination should be confined to the new matter brought out in the cross-examination.

Further examination.—In the interest of justice the court may, if deemed necessary, permit further examination and cross-examination.

Questions by members.—After the preliminary examination and cross-examinations, any member of the court may question the witness. If there is no objection made, the record should show that it is a question "by the court." If a question by a member is objected to and the objection is sustained by the court, the record shall show that it is a "question by a member."

Examined by the court:

5. Q. * * *

A. * * *

6. Q. (By a member) * * *

A. * * *

Any member may ask questions at this stage, said questions being for the purpose of making clear testimony already given.

VAR. The court did not desire to question this witness.

The witness verified his testimony, was duly warned, and withdrew.

Testimony read.—The recorded testimony of a witness shall be read to or by him, in order that he may verify, correct, or amend it.

Warning.—The president warns the witness, before withdrawing from the room where the court is in session, not to converse upon any matter pertaining to the trial during its continuance. This warning shall not be given to a member, to the accused, or to his counsel, if any.

VAR. The witness verified his testimony and then resumed his status as a member of the court.

A witness for the prosecution entered, was duly sworn, and testified as follows:

Examined by the president:

1. Q. What is your name and rank? (rating).

A. * * *

2. Q. As whom do you recognize the accused?

A. * * *

3. Q. Did, or did you not, see him on November —?

A. Permit me to refresh my memory. Yes; I saw him come on board the *Winona* ———.

Documentary evidence.—Can not be received and attached to the record in cases before a minor court, except as provided in article 2282 of the regulations.

Refreshing memory.—A witness may refresh his memory by examining memoranda. The memoranda are not testimony and are used only as a guide to present memory. He may refresh his memory from a memorandum made by him at the time the fact or transaction to which it refers occurred or as soon thereafter as to afford the presumption that the memory of the witness was fresh at the time of making it. If the memorandum is not one made by the witness, he may use it, if it appears, after inspecting it, he can speak from his own recollection.

The accused did not desire to cross-examine this witness.

(The record must show that the accused was given the opportunity to cross-examine the witness.)

The witness verified his testimony, was duly warned, and withdrew.

VAR. The record of testimony of this witness was read aloud and corrected by him as follows:

1. in 4. A., strike out "———" and substitute "———."
2. add to 3. A. "———."
3. strike out 5. A. and substitute "———."
4. strike out all of 9. A.

As thus amended the witness verified his testimony, was duly warned, and withdrew.

Correcting testimony.—The above form is to be used when the witness corrects his testimony. As a general rule this is not necessary for the records of minor courts. If the trial is prolonged and much testimony is adduced, the form will sometimes be necessary.

(16) The prosecution rested.

(17) The defense began.

(To be omitted if the accused does not desire to call a witness or make a statement.)

VAR. 1. The accused did not desire to call any witnesses or make a statement.

VAR. 2. The accused did not desire to call any witness, but made an oral statement in substance as follows: ——.

No written defense.—Neither written defense or argument, nor any protracted oral defense shall be admitted in a case brought for trial before a minor court. The accused may make an oral statement, the substance of which shall be entered upon the record.

A witness for the defense entered, was duly sworn, and testified as follows: ——.

Member as witness.—If a member of the court is to be a witness for the defense, he should be the first called.

Examined by the president:

1. Q. What is your name and rank? (rating).

A. * * *

2. Q. As whom do you recognize, etc.?

A. * * *

Preliminary questions.—For purposes of identification only, the president shall ask the witness questions as to his name and rank or rating, and as whom he recognizes the accused.

Examined by the accused (counsel):

3. Q. * * *

A. * * *

Examined by the president:

VAR. The court did not desire to question this witness. The witness verified his testimony, was duly warned, and withdrew.

The accused, at his own request, was duly sworn, and testified as follows: ———.

Accused as witness.—The accused shall at his own request, but not otherwise, be a competent witness and shall be allowed to testify in his own behalf. He does not occupy a different status from that of any other witness. He is subject to cross-examination and his testimony is subjected to the same rules of evidence as that of any other witness. His failure to make request to testify shall not create any presumption against him.

Examined by the president:

(The president shall put the preliminary identification questions.)

Examined by counsel for accused:

Q. * * *

A. * * *

Examination of accused.—The counsel for accused, if there he one, shall conduct the direct examination of the accused. The order of his examination shall be the same as other witnesses.

When accused has no counsel.—If the accused has no counsel the president shall conduct the examination, and shall see that the accused has full opportunity to testify to all relevant facts which the latter desires to establish through his testimony.

The court did not desire to question this witness. The witness verified his testimony, and resumed his status as the accused.

VAR. Examined by the court.

(18) The defense rested.

(In case no defense is offered by the accused, the above is to be omitted.)

(19) The rebuttal began.

A witness for the prosecution in rebuttal entered, was duly sworn, and testified as follows: ———.

Witness recalled.—When a witness is recalled who has been previously sworn according to law and in the presence of the accused in the case on trial, he need not be resworn. But the president shall warn him that his previous oath is still binding, and a note thereof shall be made on the record.

Examined by the president:

Q. * * *

A. * * *

The court did not desire to examine this witness. The witness verified his testimony, was duly warned, and withdrew.

The rebuttal ended.

(20) The surrebuttal began.

* * *

The surrebuttal ended.

The accused did not desire to make a statement.

VAR. The accused (counsel) made an oral statement in substance as follows: ———.

The defense rested.

(21) The trial was finished.

(22) The court was cleared, and after maturely considering the evidence,

(23) the recorder was directed to record the following findings.

(To be in the handwriting of the recorder, without erasure or interlineations, according to the following form, care being taken to properly write the name and rating of the accused.)

The specification of the charge proved, and the accused, Seaman J—— B——, U. S. Coast Guard, is of the charge, guilty.

VAR. 1. The specification of the charge proved by plea, and the accused ——.

VAR. 2. The specification of the charge not proved, and of the charge, not guilty, and the court acquits him, the said Seaman J—— B——, U. S. Coast Guard, of the offense specified.

VAR. 3. The specification of the charge, proved in part, proved except the words “——,” which words are not proved, and the accused ——, is of the charge, guilty.

VAR. 4. The specification of the charge proved in part, proved except the words “——,” which words are not proved, and for the excepted words the court substitutes the words “——,” which words are proved, and the accused ——, is of the charge, guilty in a less degree than charged, guilty of ——.

VAR. 5. The specification of the first charge proved, and the accused ——, is of the first charge, guilty.

The first specification of the second charge, proved.

The second specification of the second charge, proved in part, proved except the words “——,” which words are not proved, and for the excepted words the court substitutes the words “——,” which words are proved.

And that the accused ——, is of the second charge, guilty.

The specification of the third charge, not proved, and of the third charge, not guilty, and the court acquits him, the said ——, of the offense specified.

(24) The court was opened and all parties to the trial entered.

The recorder stated that he had no evidence of previous conviction; that he desired (or did not desire) to submit extracts from the conduct record of the accused during the current enlistment; that the pay of the accused is —— per month; and that there is due the United States the sum of —— for clothing drawn (or whatever reason).

VAR. The recorder stated that he had evidence of previous conviction.

There being no objection, the recorder read the following extracts from the current enlistment record of the accused, showing previous convictions, and also the following extracts from the conduct record of the accused: ——.

Previous conviction.—After a finding is reached and the court opened, the recorder shall state whether or not there is evidence of previous conviction, and whether or not he desires to submit extracts from the conduct record of the accused during his current enlistment.

The evidence of previous convictions and the extracts from the conduct record must be offered *after* the findings on the charges for which he is on trial have been recorded, and *before* the sentence is awarded.

Punishments by commanding officer.—As commanding officers have power to punish minor infractions of discipline without recourse to courts, the recorder should introduce extracts from the conduct record of the accused showing punishments imposed by commanding officers during his current enlistment for the consideration of the court *after* the findings. For the guidance of the reviewing authority extracts may be quoted from the record, giving dates of punishments by the commanding officer. Especially should this be the case if the offense for which the accused is on trial is a repetition of offenses during his current enlistment for which he has been previously punished by the commanding officer without recourse to courts.

(25) The court was cleared, and after due deliberation the recorder was

(26) directed to record the sentence of the court, as follows: The court, therefore, sentences him, Seaman J—— B——, U. S. Coast Guard, to be dishonorably discharged from the United States Coast Guard.

(To be in the handwriting of the recorder without erasure or interlineation.)

VAR. 1. ——— to be dishonorably discharged from the United States Coast Guard, and to forfeit all pay now due and that may become due him to date of discharge (excepting the sum of six (6) dollars, the amount of his indebtedness for clothing drawn) (or other reason).

VAR. 2. ——— to be confined on board ship for one month.

VAR. 3. ——— to forfeit the sum of ten (10) dollars from his pay.

VAR. 4. ——— to be reduced to the next inferior rating, that of ordinary seaman, and to forfeit the sum of ten (10) dollars from his pay.

VAR. 5. ——— to forfeit one (1) month's pay, amounting to thirty-eight dollars and forty cents (\$38.40).

VAR. 6. ——— to be deprived of liberty on shore for two (2) months, and to forfeit fifteen (15) days' pay, amounting to nineteen dollars and twenty cents (\$19.20).

Sentence to be lawful.—The sentence must conform to law. Care shall be taken relative to the phraseology, and not to make use of the words "to lose," "quarantine," "in the brig," and the like.

A. B. C———,
First Lieutenant of Engineers, U. S. Coast Guard, President.

D. E. F———,
Second Lieutenant, U. S. Coast Guard, Member.

G. H. J———,
Third Lieutenant, U. S. Coast Guard, Member and Recorder.

(27) In consideration of his previous good record, we recommend the accused in this case to the clemency of the reviewing authority.

VAR. 1. ——— his youth and inexperience ———.

VAR. 2. ——— the attendant circumstances of provocation
(or, as the case may be)———.

D. E. F———,
Second Lieutenant, U. S. Coast Guard, Member.
G. H. J———,
Third Lieutenant, U. S. Coast Guard, Member.

Sentence to be adequate.—The sentence must in every case be adequate, but if the circumstances of the case are such that it be deemed proper that leniency should be shown, the members who concur may join in a recommendation for clemency. The recommendation for clemency is the act of the member or members joining therein, and not the act of the court, even if all members of the court join in the recommendation.

Clemency not the prerogative of court.—The court shall not itself extend clemency in awarding the sentence, or suggest the nature of the clemency to be extended. The privilege of extending clemency rests exclusively with the reviewing authority. Therefore, in cases where the court concludes that the accused should be discharged from the service, yet deems the sentence of dishonorable discharge too severe, it is proper for the court to award a sentence of dishonorable discharge and then make a recommendation for clemency.

(28) The court then, at ———, adjourned to await orders from the convening authority.

VAR. 1. ——— took up the next case.

VAR. 2. Adjourned to meet at ———.

A. B. C———,
First Lieutenant of Engineers, U. S. Coast Guard, President.
G. H. J———,
Third Lieutenant, U. S. Coast Guard, Recorder.

Authentication of record.—The record of proceedings for each day shall be signed by the recorder, and the entire proceedings shall be authenticated by the signatures of the president and recorder, who shall sign as such, and not as members.

The proceedings, findings, and sentence in the foregoing case of Seaman J——— B———, U. S. Coast Guard, are approved and respectfully referred to the Secretary of the Treasury.

K. L. M———,
Captain, U. S. Coast Guard,
Commanding Coast Guard Cutter Winona.

VAR. 1. ——— are disapproved for the following reasons,
———, ———, and respectfully referred ———.

Review of record.—The commanding officer of the vessel, being the immediate convening authority, shall review the proceedings, findings, and sentence, and approve or disapprove the same. If he disapproves, he shall state his reasons for so doing, but shall make no recommendations.

If the minor court has been convened by the Captain Commandant, the court will transmit the record directly to Headquarters.

RECORD OF PROCEEDINGS IN REVISION

OF A

MINOR COAST GUARD COURT

CONVENED ON BOARD

U. S. COAST GUARD CUTTER WINONA

AT BOSTON, MASS.,

BY ORDER OF THE

COMMANDING OFFICER

(Captain Commandant).

CASE OF

SEAMAN J—— B——. U. S. COAST GUARD.

DECEMBER 28, 1914.

Record in revision.—The proceedings in revision must form a separate and complete record which shall be *prefixed* to the record of which it is a revision.

ORDER FOR REVISION.

Coast Guard Cutter WINONA.

TREASURY DEPARTMENT,
UNITED STATES COAST GUARD,
Boston, Mass., December 26, 1914.

First Lieut. of Engineers A. B. C. ——, U. S. Coast Guard, *President,*
Minor Coast Guard Court.

Subject: Order for revision, case Seaman J—— B——, U. S. Coast Guard.

SIR: The minor Coast Guard court before which Seaman J—— B——, U. S. Coast Guard, was tried, will reconvene as soon as practicable and will reconsider its sentence in his case, as it is not, in my opinion, adequate to the offense found proved.

Respectfully,

K. L. M——,
Captain, U. S. Coast Guard, Commanding.

(A)

VAR. 1. ——— as it is not one which the court is authorized to adjudge.

VAR. 2. ——— reconsider its finding and sentence, as the finding is not in accordance with the evidence adduced.

VAR. 3. ——— reconsider its record in the following particulars: ———.

VAR. 4. ——— reconsider its record in this case and make such recommendations as are warranted by the facts in the following particulars: On page 4 it does not appear that the witness ——— was duly sworn; on page 5 it does not appear that the accused entered when the court was opened.

Separate record.—An entirely separate record shall be kept of the proceedings in revision, to which the order for reconvening must be prefixed. A full entry shall be made of all the proceedings, verified by the signatures of the members, authenticated by the president and the recorder, and upon completion the entire record shall be transmitted to the reviewing officer.

U. S. COAST GUARD CUTTER WINONA,
Boston, Mass., Wednesday, December 28, 1914.

The court met at 10 a. m., pursuant to an order hereto prefixed, marked "A," which was read by the recorder.

Present: All the members.

What record must show.—If the court be reconvened to amend or otherwise remedy a defect or omission in the record, which may be done if the facts warrant, the record must show that all members of the court, and the accused (with counsel, if any) were present, and that the amendment was then made to conform to and express the truth in the case.

Presence of accused.—If the court be reconvened to correct clerical errors the accused need not be present, nor shall he be present during the revision of any matters that occurred in closed court.

Correction of clerical errors.—Clerical errors are not to be corrected in an informal way by erasure or interlineation. The legal procedure is for the court to continue the record by a report of the proceedings in revision when the amendment is made.

No new testimony admitted.—No new testimony shall be brought forward in any shape, the proceedings in revision being strictly confined to a reconsideration of the matter already recorded in the proceedings of the original record, no part of which is to be amended, altered, or annulled in any way.

After due deliberation, the recorder was directed to record that the court decided to revoke its former sentence in the case of Seaman J—— B——, U. S. Coast Guard, and to substitute therefor the following sentence: ———.

VAR. 1. ——— revoke its former finding in the case of Seaman J—— B——, U. S. Coast Guard, and to substitute therefor the following finding: The specification proved in part, proved except, etc. The court respectfully adheres to its former sentence.

VAR. 2. ——— decided respectfully to adhere to its former finding (or, finding and sentence; or sentence).

VAR. 3. ——— decided to correct the following clerical errors:

- (a) On page 7, by inserting between lines 10 and 11, the following: "———."
- (b) On page 9, by omitting from lines 16 and 17 the following: "———."
- (c) On page 15, by striking out the words "———." lines 5 to 9, inclusive, and substituting therefor the words, "———."

A. B. C———,
First Lieutenant of Engineers, U. S. Coast Guard, President.
 D. E. F———,
Second Lieutenant, U. S. Coast Guard, Member.
 G. H. J———,
Third Lieutenant, U. S. Coast Guard, Member and Recorder.

The court took up the next case.

VAR. 1. ——— adjourned to meet ———.

VAR. 2. ——— adjourned to await orders from the convening authority.

VAR. 3. ——— proceeded with the trial of ———.

A. B. C———,
First Lieutenant of Engineers, U. S. Coast Guard, President.
 G. H. J———,
Third Lieutenant, U. S. Coast Guard, Recorder.

LETTER FROM CONVENING AUTHORITY MAKING CHANGE IN COMPOSITION OF COURT.

U. S. COAST GUARD CUTTER WINONA,
Boston, Mass., November 30, 1914.

First Lieut. of Engineers A——— B. C———. U. S. Coast Guard,
President Minor Coast Guard Court, U. S. Coast Guard Cutter Winona,
Boston, Mass.

Subject: Change in composition of court.

SIR: Second Lieut. M——— A. G———, U. S. Coast Guard, is hereby appointed a member (member and recorder) of the minor court of which you are president, in place of Second Lieut. D——— E. F———, U. S. Coast Guard, hereby relieved.

Respectfully,

K——— L. M———,
Captain, U. S. Coast Guard, Commanding.

Changes in court.—Changes in the composition of the court can legally be made only by the convening authority, and no officer is empowered to sit as a member except in obedience to an order signed by such authority and addressed to the president of the court.

Copies appended.—Copies of all communications making changes in the court must be appended to the record.

ORDER DISSOLVING COURT.

U. S. COAST GUARD CUTTER WINONA,

Boston, Mass., December 10, 1914.

First Lieut. of Engineers A——— B. C———, U. S. Coast Guard,

President Minor Coast Guard Court, U. S. Coast Guard Cutter Winona,

Boston, Mass.

Subject: Order dissolving court.

SIR: The minor court of which you are president is hereby dissolved.

You will notify the other members of the court accordingly.

Respectfully,

K——— L. M———,

Captain, U. S. Coast Guard, Commanding.

INSTRUCTIONS FOR DRAWING UP
CHARGES AND SPECIFICATIONS.

REGULATIONS AND INSTRUCTIONS

FOR

DRAWING UP CHARGES AND SPECIFICATIONS.

How drawn.—As Coast Guard courts have limited jurisdiction, their power to punish being confined to a number of offenses specifically defined by statute, charges shall be drawn in conformity with the provisions of law, and shall specify offenses of which the court may legally take cognizance.

Charges and specifications to be succinct.—In drawing charges and specifications all extraneous matter is to be carefully avoided, and nothing shall be alleged but that which is culpable and which the prosecution is prepared to substantiate before a court.

How signed.—The charges and specifications shall be signed by a commissioned officer of the Coast Guard.

Different offenses to be the subject of distinct charges and specifications.—Facts of a perfectly distinct nature shall not be included in one and the same charge and specification of a charge, but each different fact shall be the subject of a distinct charge and specification.

Offenses not specially provided for, how charged.—When the offense is one not otherwise specifically mentioned in the list of offenses to which the jurisdiction of Coast Guard courts is limited by law, it should be charged as “scandalous conduct tending to the destruction of good morals,” or “violating (or refusing obedience to) a lawful order (or regulation) issued by the Secretary of the Treasury (or the President)”; in the latter case the specification should designate what particular order or regulation is alleged to have been violated.

No figures or abbreviations.—No part of the charges and specifications shall be in figures; all numbers, dates, proper names, titles, and the like shall be written at length and without abbreviation, except that Christian names, other than the first, may be abbreviated by initial letters.

Intent, how expressed.—A charge alleging the signing of a false return or other document shall be laid to have been done “knowingly”; and for embezzling or wasting public property, etc., to have been done “fraudulently,” for the intent with which such acts are committed determines their criminality.

The specifications of each charge, one or more, shall be brief, clear, and explicit.—The facts, circumstances, and intent constituting the offense shall be set forth with certainty and precision, and the accused charged directly and positively with having committed it.

Certain as to the party accused.—He shall be described by his title and rank or rating. The Christian name and surname shall be written at full length, if known, with the addition of his vessel, station, or service at the time the offense with which he is charged took place.

Certain as to the time and place.—The time when and place where the alleged offenses occurred shall be set forth minutely and precisely. Should doubt exist in regard to either, it may be set forth in the specification that the act was committed “on or about” such a time, or “at or near” such a place, but the limitation as to date shall embrace a reasonable time only.

Certain as to the person against whom the offense was committed.—In the case of offenses against the person or property of an individual, the Christian name and surname, with the rank or rating and station or duty of such person, if he have any, shall be stated at length, if known. If not known, the party injured shall be described as a “person unknown.”

Certain as to the facts, circumstances, and where intent forms an ingredient of the offense.—It is not sufficient that the accused be charged generally with having committed an offense, as, for instance, with habitual violation of orders or neglect of duty, but the particular acts or circumstances constituting such offenses shall be distinctly set forth in the specifications.

Caption.—The caption, being no part of the charges and specifications, shall not be referred to in them, but each specification shall be complete in itself.

Written instruments.—Where written instruments form part of the gist of the offense charged, they shall be set out verbatim, or where part only of the written instrument is included in the offense that part alone is necessary to be set out. Great care shall be taken to set them out correctly.

When substance only is to be given.—When the substance only is intended to be given it shall be introduced by the words “in substance, as follows.” The word “tenor” implies that a correct copy is set out.

Particular words, how set out.—Where particular words form the gist of the offense, they shall be set forth with particularity or declared to be of like meaning and purport. When the language is profane or obscene, only its nature need be indicated, and that in general and becoming terms.

Theft.—In drawing up a specification to support the charge of theft, care shall be taken to state at least approximately the value, and also the ownership, of the articles alleged to have been stolen.

To whom preferred.—Charges and specifications shall be preferred to the authority empowered to order, or which would, under the circumstances, most appropriately order, a court for their trial.

What part to be tried.—It is entirely within the discretion of the officer empowered to convene a court to direct what portions of the complaint against an accused shall be charged against him. Such officer may return the charges and specifications to the officer preferring them for correction, or may cause them to be redrawn or corrected. If the charges and specifications, as submitted, are materially altered or amended by the convening authority, they shall not, when submitted to the court, bear the signature of the officer who originally preferred them.

SPECIMEN CHARGES AND
SPECIFICATIONS.

SPECIMEN CHARGES AND SPECIFICATIONS.

CHARGE ONE.—Absence from duty after leave has expired.

Specification.—In that ———, a fireman in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at Arundel Cove, Maryland, did, at nine hours antemeridian on the seventeenth day of October, nineteen hundred and fifteen, his regular liberty having expired, absent himself from his station and duty without leave from proper authority, and did remain so absent until at or about ten hours antemeridian on the eighteenth day of the month and year aforesaid.

Specification.—In that ———, a fireman in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, ———, was, on the ninth day of February, nineteen hundred and sixteen, absent from his station and duty on board said vessel after leave had expired, and did remain absent therefrom, without permission of proper authority, until he reported on board the United States Coast Guard cutter ———, at ———, ———, on the sixteenth day of the month and year aforesaid.

CHARGE TWO.— ———

Specification one.— ———.

Specification two.— ———.

CHARGE.—Absence from duty without leave.

Specification.—In that ———, a cadet in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, in the harbor of ———, ———, did, on or about the twentieth day of June, nineteen hundred and fifteen, without permission from proper authority, absent himself from his station and duty on board said cutter, and did remain absent therefrom, without leave, until the twenty-fourth day of June, in the year aforesaid.

Specification.—In that ———, a seaman in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, ———, did, between noon and one hour postmeridian on the twelfth day of November, nineteen hundred and fifteen, without permission from proper authority, leave the United States Marine Hospital at ———, ———, and absent himself from his station and duty, and did remain absent therefrom, without leave, until he surrendered himself on board the United States Coast Guard cutter ——— on the twenty-first day of the month and year aforesaid.

CHARGE.—Aiding another to desert.

Specification.—In that ———, a master-at-arms in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, did, at or about ten hours postmeridian, on the tenth

day of June, nineteen hundred and sixteen, while said cutter was lying at anchor in the harbor of ———, ———, aid and assist ——— ———, an ordinary seaman in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, to desert from said cutter and from the United States Coast Guard.

CHARGE.—Assaulting his superior officer while in the execution of the duties of his office.

Specification.—In that ——— ———, an oiler, second class, in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, ———, did, on or about the fifteenth day of June, nineteen hundred and sixteen, in the city of ———, ———, wilfully and maliciously, and without justifiable cause, assault his superior officer, Machinist ——— ———, United States Coast Guard, who was then and there in the execution of the duties of his office.

CHARGE.—Attempting to assault his superior officer while in the execution of the duties of his office.

Specification.—In that ——— ———, a gunner in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, ———, did, on the first day of June, nineteen hundred and sixteen, wilfully and maliciously, and without justifiable cause, attempt to assault his superior officer, Third Lieutenant ——— ———, United States Coast Guard, who was then and there in the execution of the duties of his office.

CHARGE.—Attempting to strike his superior officer while in the execution of the duties of his office.

Specification.—In that ——— ———, a third lieutenant in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, did, at or about four hours and thirty minutes post-meridian, on the fourteenth day of May, nineteen hundred and sixteen, while said vessel was lying at anchor in the harbor of ———, ———, and in the wardroom of said vessel, when his superior officer, First Lieutenant ——— ———, United States Coast Guard, the executive officer of said vessel, ordered him, the said ———, to prepare a report of ———, wilfully and maliciously, and without justifiable cause, attempt to strike the said First Lieutenant ——— ———, the executive officer of said vessel, who was then and there in the execution of the duties of his office.

Specification.—In that ——— ———, a cook in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, ———, did, between the hours of ten and eleven postmeridian, on the third day of April, nineteen hundred and sixteen, on board said vessel, wilfully and maliciously, and without justifiable cause, attempt to strike ——— ———, master-at-arms, United States Coast Guard, who, in the discharge of his duties, was searching the said ——— ———, by order of First Lieutenant ——— ———, United States Coast Guard, the executive officer of said vessel.

CHARGE.—Conduct unbecoming an officer and a gentleman.

Specification.—In that ——— ———, a second lieutenant of engineers, United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, having become justly indebted to ——— ———, of Boston, Massachusetts, in the sum of two hundred and thirty-one dollars and seventy-five cents, or thereabouts, for goods purchased and money

borrowed from said ———, at various times between the tenth day of April, nineteen hundred and fifteen, and the fourth day of March, nineteen hundred and sixteen, has, with the exception of fifteen dollars, paid on account July eighth, nineteen hundred and fifteen, up to the present time, notwithstanding repeated promises to pay said debt and the frequent demands made on him by said ———, neglected and failed to pay the said ——— the amount due and owing him, thereby exhibiting a dishonorable indifference to his just indebtedness and a disregard of his obligations as an officer and a gentleman.

CHARGE.—Desertion.

Specification.—In that ———, a seaman in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, did, on or about the eighth day of August, nineteen hundred and fifteen, desert from the said cutter and from the United States Coast Guard, and did continue in desertion until he was delivered on board the United States Coast Guard cutter ———, at ———, on the thirtieth day of August, in the year aforesaid.

Specification.—In that ———, a fireman in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, did, on the twentieth day of March, nineteen hundred and fifteen, desert from said cutter and from the United States Coast Guard, and did continue in desertion until he surrendered himself on board the United States Coast Guard cutter ———, at ———, on the twentieth day of August, nineteen hundred and sixteen.

Specification.—In that ———, an ordinary seaman in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter *Mohawk*, at ———, did, on the second day of October, nineteen hundred and fifteen, desert from said cutter and from the United States Coast Guard, and did continue in desertion until he enlisted in the United States Coast Guard as an ordinary seaman, on board the United States Coast Guard cutter *Seminole*, at ———, on the second day of February, nineteen hundred and sixteen.

Specification.—In that ———, alias ———, a bugler in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter *Bear*, at San Francisco, California, did, on the second day of June, nineteen hundred and fifteen, desert from the United States Coast Guard cutter *Tahoma*, at Sausalito, California, and from the United States Coast Guard, while serving under the name and rate of ———, bugler, and did continue in desertion until he enlisted as a bugler on the United States Coast Guard cutter *Bear*, at San Francisco, California, on the seventh day of December, nineteen hundred and fifteen, under the name of ———.

CHARGE.—Disobeying lawful order of superior officer.

Specification.—In that ———, a keeper in the United States Coast Guard, attached to the United States Coast Guard station number —, at Galveston, Texas, having been, on or about the twenty-ninth day of November, nineteen hundred and fifteen, in accordance with instructions from Headquarters of the United States Coast Guard, transferred to the United States Coast Guard cutter ———, at Galveston, Texas, for safe-keeping, and ordered to be confined to the limits of said vessel until further orders, and having been restricted to the limits of said vessel by order of the commanding

officer, First Lieutenant ———, United States Coast Guard, did, at or about five hours postmeridian, on the eleventh day of December, nineteen hundred and fifteen, refuse to obey, and did wilfully disobey the said lawful order of his superior officer, the said First Lieutenant ———, United States Coast Guard, by leaving said vessel without permission.

Specification.—In that ———, a third lieutenant in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at anchor off ———, ———, having on or about the nineteenth day of May, nineteen hundred and fifteen, on board said cutter, been ordered by First Lieutenant ———, United States Coast Guard, the executive officer of said cutter, to superintend the work of breaking out the fore hold, did then and there refuse to obey said lawful order.

Specification.—In that ———, a seaman in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at anchor off Norfolk, Virginia, having, on the sixteenth day of June, nineteen hundred and fifteen, been ordered by ———, master-at-arms, United States Coast Guard, attached to said cutter, to go to the berth deck of said cutter and perform extra duty in accordance with the sentence of a minor Coast Guard court, did refuse to obey, and did wilfully disobey, the said lawful order of the said Master-at-Arms ———, who was then and there in the execution of the duties of his office.

CHARGE.—Drunkenness.

Specification.—In that ———, a number one surfman in the United States Coast Guard, attached to and temporarily in charge of United States Coast Guard station number ———, at Velasco, Texas, was, on or about the sixteenth day of November, nineteen hundred and fifteen, upon his return to said station from liberty, under the influence of intoxicating liquor, and thereby unfit for duty.

Specification.—In that ———, a first lieutenant in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, ———, was, on the sixth day of March, nineteen hundred and fifteen, on board said cutter under the influence of intoxicating liquor, and thereby incapacitated for the proper performance of duty.

Specification.—In that ———, a fireman in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, ———, was, on the sixteenth day of June, nineteen hundred and fifteen, upon his return to said cutter from liberty, drunk and unfit for duty.

CHARGE.—Drunkenness on duty.

Specification.—In that ———, a second lieutenant in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, ———, was, at or about nine hours postmeridian on the twenty-fourth day of May, nineteen hundred and fifteen, while on duty as officer of the deck of said cutter, under the influence of intoxicating liquor, and thereby incapacitated for the proper performance of duty.

Specification.—In that ———, a number one surfman in the United States Coast Guard, attached to and temporarily in charge of United States Coast Guard station number ———, at Velasco, Texas, was, on or about

the thirtieth day of October, nineteen hundred and fifteen, while on duty in charge of the crew rendering assistance, under the influence of intoxicating liquor, and thereby incapacitated for the proper performance of duty.

Specification.—In that ———, a seaman in the United States Coast Guard, attached to and serving on the United States Coast Guard cutter ———, at ———, ———, was, on the sixth day of June, nineteen hundred and fifteen, while a member of a boat's crew from the said cutter employed in boating off supplies for the said cutter at the said place, under the influence of intoxicating liquor, and thereby unfit for the proper performance of duty.

CHARGE.—Fraudulently signing voucher.

Specification.—In that ———, a first lieutenant in the United States Coast Guard, being, on or about the first day of January, nineteen hundred and sixteen, and continuously thereafter until on or about the ——— day of June, nineteen hundred and sixteen, attached to and serving on board the United States Coast Guard cutter ———, at ———, ———, as the executive and navigating officer of said vessel, and it being part of his duty as such executive and navigating officer to direct the preparation of and to examine, and if found correct to certify the pay rolls of said vessel prior to their submission to the commanding officer for approval and transmission to the special disbursing officer by whom they were to be settled, did cause to be prepared a monthly pay roll of the officers and enlisted persons attached to said vessel for the month of January, nineteen hundred and sixteen, and did on or about the thirty-first day of January, nineteen hundred and sixteen, in his official capacity as executive and navigating officer of said vessel, certify to the correctness of said pay roll, which pay roll was subsequently in due course approved by the commanding officer and transmitted to the special disbursing officer for said vessel, and the amounts therein set forth, respectively, were paid to the persons whose names appeared thereon, whereas, as he, the said ———, well knew, the said pay roll contained the names of two seamen, ——— and ———, who were credited, in making up the time and amounts specified on said pay roll, with having been present thirty-one days during the month of January, nineteen hundred and sixteen, when in fact they had each been absent from duty without leave for three days during that period, to wit, from the eighteenth to the twentieth days of said month, both dates inclusive, in consequence of which false entries on said pay roll overpayments to said seamen for the period named were made, amounting to about ——— dollars and ——— cents; and the said ——— did therein and thereby fraudulently sign a voucher.

CHARGE.—Gambling.

Specification.—In that ———, a second lieutenant in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, did, at or about nine hours postmeridian, on the first day of March, nineteen hundred and sixteen, while said vessel was lying at anchor in the harbor of ———, ———, and in the wardroom of said vessel, wilfully play cards for stakes, and did thereby gamble.

CHARGE.—Maltreatment of a subordinate person in the Coast Guard.

Specification.—In that ———, a captain in the United States Coast Guard, being in command of the United States Coast Guard cutter ———, did, on or about the eleventh day of April, nineteen hundred and sixteen,

while the said vessel was lying at anchor in the harbor of ———, maltreat ———, a fireman in the United States Coast Guard, attached to and serving on board said vessel, by causing him, the said ———, to be confined in double irons on bread and water in the brig of said vessel and to be kept so confined during a period of about ten days.

Specification.—In that ———, a first lieutenant in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, did, between the hours of eight and nine postmeridian, on the fourteenth day of April, nineteen hundred and sixteen, willfully and without justifiable cause assault and kick ———, boy, first class, United States Coast Guard, attached to and serving on board the said vessel.

CHARGE.—Misappropriation of mess funds.

Specification.—In that ———, a third lieutenant in the United States Coast Guard, while attached to and serving on board the United States Coast Guard cutter ———, having, while in charge of the money and stores of the general mess of said vessel, received from Second Lieutenant ———, United States Coast Guard, the treasurer of the wardroom mess, all amounts due from him to the general mess of said vessel, and from other sources money due the said general mess, all of which moneys received by the said Third Lieutenant ——— should have been applied in the prompt payment of indebtedness incurred by him on account of the said mess, did, at ———, on the first day of November, nineteen hundred and sixteen, misappropriate the mess funds of the said general mess, in the sum of sixty dollars, or thereabouts, by taking said funds away from the said vessel without payments of the indebtedness contracted by him on account of the said general mess, or without rendering a true and proper statement of his account with the said mess, required by the Regulations, United States Coast Guard, nineteen hundred and sixteen.

CHARGE.—Misuse of Government property.

Specification.—In that ———, an electrician, first class, in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, did, on the twenty-second day of November, nineteen hundred and sixteen, misuse Government property by pledging and placing in pawn at ———'s Loan Office, at ———, under the name of ———, a pair of binoculars of about fifteen dollars value, well knowing that they were the property of the United States, receiving from the said loan office the sum of four dollars for the binoculars thus pledged.

CHARGE.—Misuse of Government supplies.

Specification.—In that ———, a seaman in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, did, on or about the sixth day of January, nineteen hundred and sixteen, wilfully remove from said vessel one hundred pounds of white lead and five gallons of boiled linseed oil, and did use the same in painting a boat, the private property of the said ———.

CHARGE.—Neglect of duty.

Specification.—In that ———, a third lieutenant in the United States Coast Guard, while attached to and serving on board the United States Coast Guard cutter ———, in charge of the money and stores of the general mess of said vessel at ———, ———, did, on or about the first day of February, nineteen hundred and sixteen, when detached from said vessel, neglect and fail to submit to Captain ———, ———, United States Coast Guard, the commanding officer of said vessel, on the prescribed form, a statement of the cash transactions of the general mess of said vessel for the month of January, nineteen hundred and sixteen, and did therein and thereby neglect his duty.

Specification.—In that ———, a third lieutenant in the United States Coast Guard, while attached to and serving on board the United States Coast Guard cutter ———, in charge of the money and stores of the general mess of said vessel at ———, ———, did, on or about the first day of March, nineteen hundred and sixteen, when detached from said vessel, neglect and fail to turn over, by invoice duly certified by him, to Third Lieutenant ———, United States Coast Guard, his successor in charge of the general mess of said vessel, all money and provisions on hand belonging to said mess, taking said officer's receipt therefor on the prescribed form and deliver to the commanding officer of said vessel a copy of said receipt, and did therein and thereby neglect his duty.

Specification.—In that ———, a third lieutenant in the United States Coast Guard, while attached to and serving on board the United States Coast Guard cutter ———, in charge of the money and stores of the general mess of said vessel, being on or about the ninth day of November, nineteen hundred and fifteen, indebted to ———, a merchant of ———, in the sum of twenty-three dollars for supplies furnished the general mess of said vessel, and well knowing that it was his duty to discharge said indebtedness, did neglect and fail to discharge said indebtedness until after the matter was referred to said officer by Headquarters on the tenth day of April, nineteen hundred and sixteen, upon complaint of the said merchant, and the said Third Lieutenant ———, did therein and thereby neglect his duty as the officer in charge of the general mess of said vessel.

Specification.—In that ———, a second lieutenant in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, while making passage from ———, ———, through Lake Superior to ———, ———, did, while officer of the deck and on watch from eight hours antemeridian to meridian on the seventh day of May, nineteen hundred and sixteen, well knowing that thick weather, by reason of fog, was then prevailing, and that said vessel was on soundings and in the vicinity of land, neglect and fail to take frequent and necessary soundings with the lead and accurately fix the position of said vessel, in consequence of which the said United States Coast Guard cutter was thereafter, at or about one hour and five minutes postmeridian on the day aforesaid, run upon the ground in Lake Superior at ——— Point, Michigan, and was thereby injured, and the said Second Lieutenant ——— did therein and thereby neglect his duty as officer of the deck of the said United States Coast Guard cutter ———.

Specification.—In that ———, an electrician, second class, in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ——— at ———, ———, did, while on radio

watch at or about six hours and forty-three minutes antemeridian on the fifteenth day of June, nineteen hundred and sixteen, sleep on watch, and did therein and thereby neglect his duty.

CHARGE.—Refusing obedience to a lawful order issued by the Secretary of the Treasury.

Specification.—In that ———, a third lieutenant in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, having, on or about the third day of August, nineteen hundred and fifteen, had addressed to him by the Secretary of the Treasury a letter in words and figures substantially as follows: * * *; he, the said Third Lieutenant ———, did, notwithstanding the direction of the Secretary of the Treasury immediately to acknowledge the receipt of said letter, neglect and fail, and has ever since neglected and failed, to make such acknowledgment; and the said Third Lieutenant ——— did therein and thereby refuse obedience to a lawful order issued by the Secretary of the Treasury.

CHARGE.—Refusing to obey lawful order of superior officer.

Specification.—In that ———, a seaman in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, having, at or about nine hours and forty-five minutes antemeridian, on the sixteenth day of May, nineteen hundred and sixteen, been ordered by First Lieutenant ———, United States Coast Guard, the executive officer of said vessel, to participate in the signal drill and make an effort to learn signals, did refuse to obey, and did wilfully disobey the said lawful order of his superior officer, the said First Lieutenant ———, who was then and there in the execution of the duties of his office.

Specification.—In that ———, a fireman in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, having, while on shore at ———, at or about eleven hours antemeridian, on the thirteenth day of May, nineteen hundred and sixteen, been ordered by Gunner ———, United States Coast Guard, attached to and serving on board said vessel, to report on board the said vessel at once, did wilfully refuse and neglect to report on board the said vessel, and did therein and thereby wilfully refuse to obey the said lawful order of his superior officer, the said Gunner ———, who was then and there in the execution of the duties of his office.

Specification.—In that ———, a surfman in the United States Coast Guard, attached to and serving at United States Coast Guard station number ———, at ———, having on the eighteenth day of May, nineteen hundred and sixteen, been ordered by Keeper ———, United States Coast Guard, in charge of said station, not to pull with the blade of his oar at an angle of about forty-five degrees from the perpendicular when making the stroke, which he was doing, did refuse to obey, and did wilfully disobey the lawful order of his superior officer, the said Keeper ———, who was then and there in the execution of the duties of his office.

CHARGE.—Scandalous conduct tending to the destruction of good morals.

Specification.—In that ———, a fireman in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, did, at or about ten hours antemeridian,

of the ninth day of June, nineteen hundred and sixteen, on board said vessel, engage in fighting and disorderly conduct with one ———, a fireman in the United States Coast Guard, attached to and serving on board said vessel.

Specification.—In that ———, an acting quartermaster in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, off ———, did, at or about eight hours and thirty minutes postmeridian, on the seventh day of May, nineteen hundred and sixteen, when questioned by First Lieutenant ———, United States Coast Guard, commanding said vessel, relative to his failure to return from liberty at the time ordered, say to him, the said First Lieutenant ———, “You are no good. I respect your rank, but not you as a man. I am a better man than you any day,” or words to that effect, thereby treating with contempt and disrespect his commanding officer, the said First Lieutenant ———, who was then and there in the execution of the duties of his office; this to the scandal and disgrace of the United States Coast Guard.

CHARGE.—Smuggling liquor on board a vessel of the Coast Guard.

Specification.—In that ———, a fireman in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, did, at or about one hour antemeridian, on the ninth day of June, nineteen hundred and sixteen, smuggle on board said vessel a bottle containing intoxicating liquor.

CHARGE.—Striking his superior officer while in the execution of the duties of his office.

Specification.—In that ———, a seaman in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, did, at or about eight hours and ten minutes postmeridian, on the eleventh day of April, nineteen hundred and sixteen, wilfully and maliciously, and without justifiable cause, strike his superior officer, Third Lieutenant ———, United States Coast Guard, who was then and there in the execution of the duties of his office.

Specification.—In that ———, an ordinary seaman in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, did, on the second day of June, nineteen hundred and sixteen, wilfully and maliciously, and without justifiable cause, strike his superior officer, Quartermaster ———, United States Coast Guard, attached to said vessel, who was then and there in the execution of the duties of his office.

CHARGE.—Theft in an amount under one hundred dollars.

Specification.—In that ———, a seaman in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, did, on or about the twenty-second day of November, nineteen hundred and fifteen, feloniously take, steal, and carry away from said vessel, one pair of binocular glasses of about fifteen dollars' value, the property of the United States, and did then and there appropriate the same to his own use.

Specification.—In that ———, a seaman in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, did, on or about the twenty-seventh day of

December, nineteen hundred and fifteen, feloniously take, steal, and carry away from said vessel a hypodermic syringe, with case, of about three dollars' value, the property of the United States, and did then and there appropriate the same to his own use.

Specification.—In that ———, a coxswain in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, ———, did, at about twelve hours and thirty minutes antemeridian, on the twenty-seventh day of May, nineteen hundred and sixteen, feloniously take, steal, and carry away from a clothes bag on the berth deck of the said vessel certain articles of uniform clothing, to wit: Two white jumpers, two white trousers, one white hat, one watch cap, one overcoat, of the value of about twenty dollars, more or less, the property of ———, a seaman in the United States Coast Guard, attached to said vessel, and did then and there appropriate the same to his own use.

CHARGE.—Threatening to assault a superior officer while in the execution of the duties of his office.

Specification.—In that ———, an ordinary seaman in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, ———, did, at or about eight hours and thirty minutes postmeridian, on the seventh day of May, nineteen hundred and sixteen, when ordered searched and placed in the brig by his commanding officer, Captain ———, United States Coast Guard, say to him, the said Captain ———, "Put me in the brig if you want to. Put me in irons, but I'll get you ashore and knock hell out of you," or words to that effect. And further, did, at the same time and place, assume and appear in a threatening attitude toward his superior officer, the said Captain ———, who was then and there in the execution of the duties of his office.

Specification.—In that ———, a water tender in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, ———, did, on or about eight hours and thirty minutes antemeridian, on the seventeenth day of May, nineteen hundred and sixteen, when he was being searched by the order of the executive officer of said vessel, First Lieutenant ———, United States Coast Guard, "Search me if you want to. The only thing I would bring on board is a forty-four to blow your damned head off," or words to that effect. And further, did, at the same time and place, assume and appear in a threatening attitude toward his superior officer, the said First Lieutenant ———, who was then and there in the execution of the duties of his office.

Specification.—In that ———, a surfman in the United States Coast Guard, attached to and serving at United States Coast Guard station number ———, at ———, ———, did, on the eighteenth day of June, nineteen hundred and sixteen, while at drill in the Beebe-McLellan self-bailing surfboat, when ordered by Keeper ———, United States Coast Guard, in charge of said station, not to pull with the blade of his oar at an angle of about forty-five degrees from the perpendicular, say to him, the said Keeper ———, "Come out on the beach and I'll settle the matter with you," or words to that effect, the said Keeper ——— being his superior officer, and being then and there in the execution of the duties of his office.

Specification.—In that ———, a coal heaver in the United States Coast Guard, attached to and serving on board the United States Coast Guard

cutter ———, at ———, ———, did, on the twenty-first day of May, nineteen hundred and sixteen, while engaged in making preparations for boat drill, under direction of Boatswain ——— ———, United States Coast Guard, attached to and serving on board said vessel, take off his cap and overshirt, assume a threatening attitude, and threaten to assault his superior officer, the said Boatswain ——— ———, who was then and there in the execution of the duties of his office.

CHARGE.—Threatening to strike a superior officer while in the execution of the duties of his office.

Specification.—In that ——— ———, a fireman in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ——— at, ———, ———, did, at or about one hour and fifteen minutes postmeridian, on the ninth day of June, nineteen hundred and sixteen, when ordered to stop fighting by Master-at-Arms ——— ———, United States Coast Guard, attached to and serving on board said vessel, follow said officer to the brig of the vessel, say to him, "Go on, put me in; I got it coming; but I would not give a nickel for your life right now," or words to that effect, and further did, at the same time and place, double up his fists and assume a threatening attitude toward his superior officer, the said Master-at-Arms ——— ———, who was then and there in the execution of the duties of his office.

CHARGE.—Using abusive language.

Specification.—In that ——— ———, a gunner in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, ———, did, at or about three hours postmeridian, on the second day of June, nineteen hundred and sixteen, use abusive language toward ——— ———, a coxswain in the United States Coast Guard, attached to and serving on board said vessel.

Specification.—In that ——— ———, a surfman in the United States Coast Guard, attached to and serving at United States Coast Guard station number ———, at ———, ———, did, on the fifth day of May, nineteen hundred and sixteen, while engaged in making preparations for the regular boat drill, use abusive language toward his superior officer, Keeper ——— ———, United States Coast Guard, in charge of said station, being then and there in the execution of the duties of his office.

CHARGE.—Using obscene language.

Specification.—In that ——— ———, a surfman in the United States Coast Guard, attached to and serving at United States Coast Guard station number ———, at ———, ———, did, on the eighteenth day of May, nineteen hundred and sixteen, while at drill in the Monomoy surfboat, use obscene language toward his superior officer, Keeper ——— ———, United States Coast Guard, in charge of said station, who was then and there in the execution of the duties of his office.

Specification.—In that ——— ———, a seaman in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, off ———, ———, did, at or about ten hours ante-meridian, on the seventh day of June, nineteen hundred and sixteen, use obscene language toward ——— ———, a seaman in the United States Coast Guard, attached to and serving on board said vessel.

Specification.—In that ———, a seaman in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, ———, did, at or about two hours and ten minutes postmeridian, on the eighth day of July, nineteen hundred and sixteen, wilfully use obscene language.

CHARGE.—Violating lawful regulation issued by the Secretary of the Treasury.

Specification.—In that ———, a number one surfman in the United States Coast Guard, attached to and temporarily in charge of United States Coast Guard station number ———, at ———, ———, did, on or about the sixteenth day of November, nineteen hundred and sixteen, take and keep intoxicating liquor within the limits of said station; this in violation of a lawful regulation issued by the Secretary of the Treasury, to wit, article nineteen hundred and eighty-seven, Regulations for the United States Coast Guard, nineteen hundred and sixteen.

Specification.—In that ———, a number one surfman in the United States Coast Guard, attached to and serving at United States Coast Guard station number ———, at ———, ———, did, on or about the ninth day of July, nineteen hundred and sixteen, take and keep intoxicating liquor within the limits of said station; this in violation of a lawful regulation issued by the Secretary of the Treasury, to wit, article nineteen hundred and eighty-seven of the Regulations for the United States Coast Guard, nineteen hundred and sixteen.

Specification.—In that ———, a fireman in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, ———, did, on the twenty-sixth day of October, nineteen hundred and sixteen, procure himself to be accepted, and did fraudulently enlist as a fireman in the United States Coast Guard, by falsely representing that he had never had any previous service in the United States Coast Guard or the United States Revenue-Cutter Service, and by deliberately and wilfully concealing from the enlisting officer the fact that he had been discharged from the United States Revenue Cutter ——— on the twenty-second day of November, nineteen hundred and eleven, at ———, ———, with an ordinary discharge, by recommendation of a board of investigation, on account of physical disability, and not recommended for reenlistment; and furthermore that he, the said ———, fireman, United States Coast Guard, has since said enlistment received pay and allowances thereunder, this to the prejudice of good order and discipline and in violation of a lawful regulation issued by the Secretary of the Treasury, to wit, article three hundred and thirteen of the Regulations for the United States Coast Guard, nineteen hundred and sixteen.

Specification.—In that ———, a first-class boy in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, ———, did, on the twenty-sixth day of December, nineteen hundred and sixteen, without permission of proper authority, by being absent from duty after leave had expired, miss the sailing of said vessel from ———, ———, when he, the said ———, first-class boy, United States Coast Guard, well knew that it was his duty to be on board the United States Coast Guard cutter ——— before the sailing of that vessel from ———, ———; this to the prejudice of good order and discipline and in violation of a lawful regulation issued by the Secretary of the Treasury, to wit, article nineteen hundred and sixty-one of the Regulations for the United States Coast Guard, nineteen hundred and sixteen.

Specification.—In that ———, a signal quartermaster in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, having, in accordance with the regulations for the United States Coast Guard, been placed under the medical care of an officer of the United States Public Health Service, and by his direction admitted for medical treatment to ——— Hospital at ———, ———, on the ninth day of November, nineteen hundred and sixteen, did, on the tenth day of the month and year aforesaid, wilfully and deliberately disobey the instructions given him by the attending surgeon at said hospital, to remain in bed until further orders; this to the prejudice of good order and discipline, and in violation of a lawful regulation issued by the Secretary of the Treasury, to wit, article nineteen hundred and sixty-one of the Regulations for the United States Coast Guard, nineteen hundred and sixteen.

Specification.—In that ———, a seaman in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, ———, having, in accordance with the Regulations for the United States Coast Guard, been placed under the medical care of an officer of the United States Public Health Service, and by his direction admitted for medical treatment to the marine hospital at ———, ———, on the ninth day of November, nineteen hundred and sixteen, did, on the tenth day of the month and year aforesaid, when informed by the nurse in charge of the ward to which he had been assigned, that his leaving the bed and removing the dressings were in disobedience of the orders of the attending surgeon, use disrespectful and insulting language toward the said nurse; and did further state in effect that he would take no orders from nurses or internes; this to the prejudice of good order and discipline, and in violation of a lawful regulation issued by the Secretary of the Treasury, to wit, article nineteen hundred and sixty-one of the Regulations for the United States Coast Guard, nineteen hundred and sixteen.

Specification.—In that ———, an electrician, first class, in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, ———, having on the twenty-second day of December, nineteen hundred and sixteen, been duly sworn as a witness before a general Coast Guard court by the recorder thereof, in the case of ———, seaman, United States Coast Guard, said court being convened on board the United States Coast Guard cutter ———, at ———, ———, did, wilfully and contrary to said oath, testify as follows:

“Question three. Do you remember, on the eighth day of December, having told Mr. ——— about a pawn ticket?”

“Answer. Yes, sir.

“Question four. Tell where you got this pawn ticket and what you did with it.

“Answer. A few days previous to that ——— gave me the ticket. At the time I did not know what it was, as I was very busy, and put the ticket in my pocketbook. Later on—I think it was the day following—I looked at it and discovered that it was a pawn ticket. It called for a pair of field glasses at a pawn brokers in ———. I think it was the evening of the same day ——— asked me to send the ticket to ——— and have the field glasses returned to the name on the ticket, which was ———. I sent the ticket to ——— with a money order.”

“Question fifteen. Do you know anything further about the pawn ticket?”

“Answer. Nothing further,”

which testimony that "at the time I did not know what it was," and that "the day following I looked at it and discovered that it was a pawn ticket," and in answer to the question "do you know anything further about the pawn ticket" the reply "nothing further," were false; whereas, in truth and in fact, he did know that it was a pawn ticket and knew further relative to the pawn ticket for the reason that he had, on the twenty-second day of November, nineteen hundred and sixteen, placed the pair of field glasses or binoculars, which were the subject of the testimony, and the property of the United States, in pledge at ——— loan office, at ———, ———, signing the name ———, and receiving therefor, from the said loan office, the sum of four dollars; and the said false testimony was known by the said ——— to be false, was material to the issue then and there being tried, and was given with the intent to deceive the said general Coast Guard court; this in violation of a lawful regulation issued by the Secretary of the Treasury, to wit, article twenty-one hundred and seventy-two of the Regulations for the United States Coast Guard, nineteen hundred and sixteen.

Specification.—In that ———, a seaman in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, ———, did, at or about three hours and ten minutes postmeridian, on the sixth day of July, nineteen hundred and sixteen, wilfully and maliciously, and without justifiable cause, assault and strike ———, an ordinary seaman in the United States Coast Guard, attached to and serving on board said vessel; this in violation of article nineteen hundred and fifty-seven of the Regulations for the United States Coast Guard, nineteen hundred and sixteen.

Specification.—In that ———, a third lieutenant in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, having, as commissary officer of said ship, between the first of July, nineteen hundred and sixteen, and the tenth of August, nineteen hundred and sixteen, both days inclusive, issued to the officers' messes of said ship certain provisions belonging to the Government, did wholly neglect and fail to keep or cause to be kept a proper account of the issue of said stores, and was thereby culpably inefficient in the performance of his duties; this in violation of article nineteen hundred and sixty-two of the Regulations for the United States Coast Guard, nineteen hundred and sixteen.

Specification.—In that ———, a seaman in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, ———, did, on the twelfth day of July, nineteen hundred and sixteen, when ordered to stand the quartermaster's watch from noon to four hours postmeridian by First Lieutenant ———, United States Coast Guard, the executive officer of said vessel, say in a defiant manner to said First Lieutenant ———, "It's not my work; you can't make me do it," or words to that effect; this to the prejudice of good order and discipline, in violation of article nineteen hundred and sixty-one of the Regulations for the United States Coast Guard, nineteen hundred and sixteen.

Specification.—In that ———, a master-at-arms in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, ———, did, on or about the second day of July, nineteen hundred and sixteen, on board said vessel at said place, state to First Lieutenant ———, United States Coast Guard, the

executive officer of said vessel, that a claim of ——— of ———, in the amount of ——— dollars and ——— cents against him, the said ———, had been satisfied, he, the said ——— well knowing that such statement made by him, as aforesaid, was false and intended to deceive; this to the prejudice of good order and discipline, in violation of article nineteen hundred and sixty-one of the Regulations for the United States Coast Guard, nineteen hundred and sixteen.

Specification.—In that Captain ———, United States Coast Guard, then in command of the United States Coast Guard cutter ———, while said vessel was at sea making a passage from ——— to ———, on the seventeenth day of July, nineteen hundred and sixteen, about nine hours post-meridian, the weather at the time being thick and foggy, the night dark, and the currents uncertain, did issue written night orders in substance as follows: That during the night the said vessel was to proceed under slow speed, was to steer a course east-northeast, per standard compass, until she had made thirty-five miles on that course, when the course was to be changed to north-northeast, per standard compass; the said Captain ——— knowing at the time he issued the aforesaid orders, from reports which had been made to him by First Lieutenant ———, United States Coast Guard, the navigator of said vessel at the time, and from calculations which he and the said First Lieutenant ——— had made together, that the said vessel would be, at the time the course was to be changed to north-northeast, per standard compass, in obedience to the aforesaid night orders, about twenty miles from the ——— Islands, and that the said course of north-northeast, per standard compass, would head the said vessel almost directly for the said ——— Islands, which islands it was dangerous to approach on a dark and foggy night, and in issuing the aforesaid night orders he, the said Captain ———, did, through negligence, hazard the vessel under his command, which vessel, while being run in obedience to the aforesaid night orders, ran upon a rock at about four hours and five minutes antemeridian of the eighteenth day of July, nineteen hundred and sixteen, which rock was close to the southeast end of ——— Island, or thereabouts, and in consequence of which striking upon the aforesaid rock the said vessel was seriously damaged; this in violation of article nineteen hundred and ninety-four of the Regulations for the United States Coast Guard, nineteen hundred and sixteen.

Specification.—In that ———, a surfman in the United States Coast Guard, attached to and serving at United States Coast Guard station number ———, at ———, ———, having been regularly assigned as the surfman on watch in the lookout of said station from ten hours postmeridian until midnight on July fifteenth, nineteen hundred and sixteen, did, at or about eleven hours postmeridian on said day, leave said lookout before being regularly relieved; this in violation of article nineteen hundred and sixty-three of the Regulations for the United States Coast Guard, nineteen hundred and sixteen.

Specification.—In that ———, a second lieutenant in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, ———, having, at or about eight hours postmeridian of the twentieth day of August, nineteen hundred and sixteen, regularly relieved the officer of the deck of the said vessel, did, at or about nine hours postmeridian of the said day, while officer of the deck of said vessel, leave his station before being regularly relieved; this in violation of article nineteen hundred and sixty-three of the Regulations for the United States Coast Guard, nineteen hundred and sixteen.

Specification.—In that ———, a seaman in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, ———, did, at or about three hours and thirty-five minutes postmeridian on the twenty-first day of October, nineteen hundred and sixteen, while being placed in confinement by ———, master-at-arms, United States Coast Guard, attached to and serving on board said vessel, forcibly resist arrest, which arrest had been ordered by Captain ———, United States Coast Guard, commanding said vessel; this in violation of article nineteen hundred and sixty of the Regulations for the United States Coast Guard, nineteen hundred and sixteen.

Specification.—In that ———, a gunner in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, ———, did, on or about the third day of August, nineteen hundred and sixteen, procure as a loan from ———, an ordinary seaman in the United States Coast Guard, attached to and serving on board said vessel, a sum of money, to wit, twenty-five dollars: this in violation of article nineteen hundred and eighty-two of the Regulations for the United States Coast Guard, nineteen hundred and sixteen.

Specification.—In that ———, a master-at-arms in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, ———, having, between the first day of July, nineteen hundred and sixteen, and the twenty-second day of September, nineteen hundred and sixteen, become indebted to ———, a cigar dealer, of ———, in the sum of thirty-five dollars and seventeen cents, for goods furnished, under promise that he would in a few days make payment therefor, did neglect and fail, and has ever since neglected and failed, to pay to said ———, the sum of thirty-five dollars and seventeen cents, or any portion thereof: this in violation of article nineteen hundred and eighty-one of the Regulations for the United States Coast Guard, nineteen hundred and sixteen.

Specification.—In that ———, a seaman in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, ———, having between the first day of August and the thirtieth day of September, nineteen hundred and sixteen, become indebted to ———, of ———, in the sum of thirty-one dollars and fifty cents, and having paid to said company on the second day of November, nineteen hundred and sixteen, the sum of seven dollars, and on the fifteenth day of said month the sum of three dollars, and being thereafter, to wit, since about the fifteenth day of November, nineteen hundred and sixteen, indebted to ——— in the sum of twenty-one dollars and fifty cents, did, although often requested to do so, neglect and fail, and has ever since neglected and failed, to pay to said company the said sum of twenty-one dollars and fifty cents, or any portion thereof, due and owing to said ———: this in violation of article nineteen hundred and eighty-one of the Regulations for the United States Coast Guard, nineteen hundred and sixteen.

Specification.—In that ———, a boatswain in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, ———, having, on or about November first, nineteen hundred and sixteen, loaned the sum of twenty dollars to ———, an ordinary seaman in the United States Coast Guard, attached to and serving on said vessel, did, on or about the first day of February, nineteen hundred and seventeen, demand and receive from the said

———, ordinary seaman, United States Coast Guard, the sum of twenty-six dollars, to wit, the sum loaned said ——— with interest thereon at the rate of ten per centum per month from the first day of November, nineteen hundred and sixteen, to the first day of February, nineteen hundred and seventeen: this in violation of article nineteen hundred and eighty-three of the Regulations for the United States Coast Guard, nineteen hundred and sixteen.

Specification.—In that ———, a surfman in the United States Coast Guard, attached to and serving at United States Coast Guard station number ———, at ———, did, while he was on watch in the lookout at said station, from midnight of the first day of July to two hours antemeridian of the second day of July, nineteen hundred and sixteen, sleep on duty during a part of said watch: this in violation of article nineteen hundred and sixty-three of the Regulations for the United States Coast Guard, nineteen hundred and sixteen.

Specification.—In that ———, a second lieutenant in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, making passage from ———, through ———, to ———, did, while officer of the deck and on watch from eight hours antemeridian to meridian, on the seventh day of April, nineteen hundred and sixteen, neglect and fail to strictly comply with article ——— of the rules for preventing collisions at sea and on inland waters, in that he neglected and failed to run said vessel at moderate speed, well knowing that thick weather by reason of fog was then prevailing: this in violation of a lawful regulation issued by the Secretary of the Treasury, to wit, article sixteen hundred and twenty-four of the Regulations for the United States Coast Guard, nineteen hundred and sixteen.

CHARGE.—Wilful destruction of Government property.

Specification.—In that ———, a quartermaster in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, while cleaning the deck lanterns belonging to said vessel, at or about eight hours and thirty minutes antemeridian, on the third day of June, nineteen hundred and sixteen, did wilfully throw one of them overboard.

Specification.—In that ———, a surfman in the United States Coast Guard, attached to and serving at United States Coast Guard station number ———, at ———, at or about ten hours antemeridian, on the fifth day of May, nineteen hundred and sixteen, did wilfully remove and break up two of the planks from the boat launchway at the said station.

Specification.—In that ———, a boy, second class, in the United States Coast Guard, attached to and serving on board the United States Coast Guard cutter ———, at ———, about noon on the thirtieth day of March, nineteen hundred and sixteen, did take off his shoes and wilfully throw one of them at the electric light on the brig of said vessel, thereby breaking said light.

NOTES ON EVIDENCE.

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[As Coast Guard courts are required by law to be governed in their procedure substantially in accordance with the rules established for courts-martial in the United States Navy, the following notes on evidence adapted from "Notes on evidence," promulgated for the United States Navy, are published for the guidance of courts in the Coast Guard.]

Duty of members of court as to evidence.—Members of courts, in their capacity as judges, must pass upon the admissibility of evidence, and, as jurors, weigh it. As it is not to be expected that officers will be able to familiarize themselves with the various works on evidence, it is appropriate to present a brief outline of the general principles governing the subject of evidence.

Reasonable and just evidence usually admissible.—The rules of evidence have as their foundation justice and common sense. Accordingly, when the exact rule governing a point in controversy is not known, it is proper to inquire whether it is *reasonable* and *just* that a given question be asked, if, for example, that is the point at issue; and if the answer be in the affirmative, the question may be admitted with assurance that the chances of error are reduced to a minimum.

Courts should be bound by ordinary rules.—Coast Guard courts are, in general, bound to observe the fundamental rules of law and principles of justice governing the civil judicature, and should, of course, wherever practicable and so far as apposite to military cases, be guided by the rules of evidence established in the practice of the civil courts, and especially in the courts of the United States in criminal cases.

Coast Guard courts not bound by statute.—They are not bound, however, by any statute in this particular, and it is thus open to them in the interest of justice to apply the rules of evidence with more indulgence than the civil courts; to allow, for example, more latitude in the introduction of testimony and in the examination and cross-examination of witnesses than is commonly permitted by the latter tribunals. In such particulars, as persons on trial by Coast Guard courts are ordinarily not versed in legal science or practice, and are as a rule not represented by counsel trained in the law, a liberal course should, in general, be pursued and overtechnicality avoided.

Definition of evidence.—The term "evidence" includes all that may be submitted to the court, whether it be the statements of witnesses, the contents of papers, documents, or records, or whatever the court may be permitted to examine and consider during the trial. (Bouvier.)

Interrogation of witnesses.—Witnesses after being sworn are interrogated respecting such facts bearing upon the case as are within their own knowledge.

Object of rules of evidence.—The rules of evidence are directed to the determination of two things: First, the competency of evidence—that is, the question whether certain witnesses shall or shall not testify, or whether certain documentary or other evidence shall or shall not be introduced; and, second, the credibility or probative force of such evidence when introduced—i. e., the weight to be attached thereto.

Credibility distinguished from competency.—Competency should not be confounded with credibility, which latter, in the case of a witness, means his worthiness of belief, the value of his testimony; and this is determined by many things, such as his character, his opportunities and powers of observation, the accuracy and retentiveness of his memory, his ability to give lucid expression to facts within his own knowledge, and his attitude or relation to the matter with respect to which his testimony is given.

Presumption of competency.—A presumption always exists in favor of the competency of a witness whose testimony is offered and the burden of proving the contrary rests on the party objecting. In deciding upon the competency of a witness the court acts in the capacity of a judge, while in determining questions of credibility it acts in the capacity of a jury.

Grounds of incompetency.—The question of competency was formerly much more important than it is now, the grounds of incompetency having by statute been reduced from time to time, so that at present there are few persons, except idiots, the insane, intoxicated persons, very young children, and the spouses of accused persons, that by law are not competent to testify.

Witnesses before Coast Guard courts generally competent.—Matters that were once regarded as affecting the competency of witnesses are now treated as bearing only upon their credibility. In other words, it may be stated as a general rule, the exceptions to which are unlikely to arise in Coast Guard practice, that all witnesses capable of so doing are entitled to testify, and that it rests with the court in its capacity as jury to decide how much weight is to be given to their testimony.

Competency decided before witness testifies.—The question of the competency of a witness should be raised and decided before he is allowed to testify; but it may be raised at any time during the trial if the grounds of incompetency were not previously known.

Manner of adducing and form of evidence.—The issues to be proved having been laid before the court in the form of charges and specifications, each side in turn submits evidence in proof or disproof of the facts at issue. The evidence submitted is, as to its form, either oral, written, or in the nature of exhibits.

Written evidence.—This consists of documents, either under seal or otherwise.

Oral testimony.—This is “direct or original” when a witness testifies to facts observed by him through the medium of his senses, and “indirect or hearsay” when he derives his knowledge from the observation of others and testifies to their declarations or statements.

Real evidence.—This consists of any objects or articles in open court, in order that they may be examined by the court, and by witnesses who may identify them or illustrate their application.

Circumstantial evidence.—The term “circumstantial evidence” is applied to that form of evidence in which the existence of a fact is inferred by a process of reasoning from the existence, or nonexistence, of other facts established in evidence by the testimony of witnesses or by the production of documents or exhibits.

Subject of evidence, how divided.—The subject of evidence may be divided into four heads: I. Proof in general; II. Admissibility of evidence; III. Oral testimony; and IV. Written evidence.

Proof in general.—Under the head of “Proof in general” it is necessary to consider (1) what is to be proved, (2) how it must be proved, (3) what is to be presumed, (4) what is to be taken notice of judicially.

(1) **What is to be proved.**—As to the first point, in a military as in a civil court, the burden is on the prosecution to establish the guilt of the accused,

and not upon the accused to establish his innocence. It must be shown by the prosecution that the act charged was committed, that the accused committed it, and that he did so with criminal intent.

(2) **Proof beyond a reasonable doubt.**—In a civil suit the plaintiff need make out a *prima facie* case only; that is, he need only adduce evidence materially preponderating over that of the defendant in order to give him a verdict; but the burden of proof resting on the prosecution in a criminal case—and all Coast Guard court procedure is of such character—is much greater by reason of the presumption of innocence that always exists in favor of the accused. To this presumption is due the rule of criminal evidence that the guilt of the accused must be established beyond a reasonable doubt.

Definition of reasonable doubt.—As this question of reasonable doubt is one that arises in every case of military law in the course of which evidence is adduced, the following definition thereof is given: By reasonable doubt is intended not fanciful or ingenious doubt or conjecture, but substantial, honest, conscientious doubt, not removed by material evidence in the case.

Rule as to reasonable doubt.—In the case of the United States *v.* Newton (52 Fed. Rep., 390) the court held that “it is an honest, substantial misgiving, generated by insufficiency of proof. It is not a captious doubt, not a doubt suggested by the ingenuity of counsel or jury and unwarranted by the testimony, nor is it doubt born of a merciful inclination to permit the defendant to escape conviction, nor prompted by sympathy for him or those connected with him.”

Meaning of rule.—From these citations it will be seen that the meaning of the rule is that the proof must be such as to exclude not the possibility of innocence but every fair and natural hypothesis except that of guilt. As stated in Greenleaf on Evidence, “What is required is not absolute or mathematical, but a ‘moral certainty,’” and as laid down in Winthrop, “A court-martial which acquits because, upon the evidence, the accused may *possibly* be innocent falls as far short of appreciating the proper *quantum* of proof required in a criminal trial as does a court which convicts because the accused is *probably* guilty.”

(3) **Presumptions of law and of fact.**—Under the head of “What is to be presumed” we find two classes of presumptions—those of law and those of fact. By presumptions of law are meant the general propositions established by the law, which are accepted without evidence by the courts as being *prima facie* true. These are of two kinds, those which are conclusive and those which are disputable. By presumptions of fact are meant those inferences as to the existence of a fact derived from some other facts; in other words, inferences deduced by the human reason.

(4) **What is taken notice of judicially.**—As to the matters of which the courts take judicial notice, there are many facts of a conspicuous general or public character which so authenticate themselves in law that the courts take judicial notice of their existence as matters of course, and which are not required either to be charged or proved; thus a Coast Guard court takes judicial notice of the Constitution, public statutes, proclamations, the power of the President and executive departments, matters of public history, the Coast Guard regulations, general and special orders, and circular letters.

Rules as to admissibility of evidence.—The three principal rules, as laid down by the authorities, bearing on the admissibility of evidence are: (1) The evidence must be relevant; (2) the burden of proof is on the Government; (3) the best evidence must be produced of which the nature of the case is susceptible.

Evidence must be relevant.—In order that evidence may be admitted by a court it must be relevant, i. e., it must bear directly upon the issue. The reason

of this rule is too apparent to require further comment; the only question is, "When is a fact relevant to the issue?" The answer is, "A fact is relevant when it is the cause or effect of another fact or is the effect of the same cause, or is the cause of the same effect." "Particular testimony tends to prove a fact when, taken in connection with other and similar testimony, it is calculated to establish such fact in evidence; each fact so testified to forming a link of the chain of either party."

Collateral facts generally inadmissible.—Facts which are collateral to the issue are inadmissible, unless the burden rests upon a party of proving interest or the existence of particular knowledge or intent on the part of a person; as, for instance, in a case of desertion, testimony that the accused purchased a ticket for a distant point, attempted to dispose of his outfit, or endeavored to exchange it for civilian's dress, though collateral, is admissible to show the intent of not returning, which is the essence of the offense.

Burden of proof on the Government.—Nothing need be said on the point that the burden of proof is on the Government, as this rule is based upon one of the fundamental axioms of the law.

Meaning of best evidence.—By the best evidence is meant not necessarily the greatest quantity of evidence, but the most authoritative and legally satisfactory evidence of which the case is capable. Whenever it appears that there is a higher and better grade of evidence than that which is introduced, the latter is not admissible.

Example of what is not best evidence; Exception.—A familiar example is the attempt to introduce oral, or parol, evidence to show the contents of a written instrument. There are, of course, exceptions to this rule. One exception of frequent occurrence is the introduction of parol evidence to prove the contents of a document which is lost or destroyed or in the possession of the other side and not produced when called for.

Hearsay evidence.—In connection with the requirements that the best evidence of which the nature of the case is susceptible must be produced, the subject of hearsay evidence is pertinent. Greenleaf states that hearsay evidence is "That form of evidence which does not derive its value solely from the consideration to be given to the witness himself, but rests in part on the veracity and competency of some other person."

Why hearsay evidence is objectionable.—Hearsay evidence is objectionable, first, because it is secondary evidence and the law requires primary evidence; second, the real witness is not testifying in court under the sanction of an oath; and, third, the opposite party, and especially the defendant in a criminal case, has no opportunity to be confronted with the witness against him, or to exercise his right of cross-examination. There are, of course, exceptions to this rule of exclusion; and again there are some exceptions which, upon examination, will be found to relate to relevant facts, and to be, as such, not liable to objection as hearsay. Thus, where the question at issue is whether certain words were actually spoken by a person other than the witness, a recital of the words by the witness is original testimony and admissible.

Exceptions to rule excluding hearsay evidence.—The principal exceptions to the inadmissibility of hearsay evidence are (1) confessions or admissions against interest; (2) dying declarations; (3) *res gestae*.

Confessions or admissions against interest.—These are admissible, but in the case of confessions it must be clearly shown that the confession was voluntary, and anything which will tend to show that a confession was extorted by threats or promises, or by use of force, especially by one in authority, will destroy its value as evidence. The court is allowed to take testimony to ascertain the

absolute conditions under which a confession was made in order to decide whether it was a voluntary act of the accused. Again, before a confession be admitted in evidence the *corpus delicti* must be proved.

Dying declarations.—These must pertain to the facts relating to the injury from which the party is suffering. It must be shown that the declaration was made in view of impending death and when no hope of recovery was cherished by the declarant. In such a case the sense of impending death replaces the sanctity of an oath.

Res gestae.—Another form of declaration of a third person which is admissible is that which forms a part of what is legally known as the *res gestae*. By the term *res gestae* is meant "the circumstances and occurrences attending and contemporaneous with the principal fact at issue, or so nearly contemporaneous with it as to constitute a part of the same general transaction, which explain and elucidate such fact by indicating its nature, motive, etc." No rule can be laid down which will be a guide as to what is and what is not a part of the *res gestae*. It is a matter which must be left to the wise discretion of the court. A declaration made even a few seconds after the occurrence of a fact has been held not to be part of the *res gestae*, while under other circumstances a declaration made a week or months after the fact has been held as part of the *res gestae*. Each and every case must stand on its own merits, and, as before stated, must be left to the sound discretion of the court, which, of course, is guided by the circumstances attending the case.

Accused as witness in his own behalf.—Formerly, in criminal prosecutions, the accused could not testify, but by the act approved March 16, 1878, it was provided that the "accused shall at his own request, but not otherwise, be a competent witness, and his failure to make such request shall not create a presumption against him." Care must be taken by the court that the accused is not placed on the stand unless he, himself, requests to be permitted to testify, otherwise a fatal error is committed. The record must affirmatively show that the statutory request was, in fact, made.

No comment to be made if the accused does not take the stand.—With reference to the fact that no presumption lies against the accused on account of his failure to testify, the Supreme Court held that it was not allowable to make "comment, especially hostile comment, upon such failure." "The minds of the jurors," it was further held, "can only remain unaffected from this circumstance by excluding all reference to it." (*Wilson v. United States*, 149 U. S., 60.) It is accordingly highly improper for the official prosecutor, in summing up the case for the prosecution, to comment on the failure of the accused to take the stand in his own behalf.

Depositions before courts.—Depositions may be taken on reasonable notice to the opposite party, and when duly authenticated, may be put in evidence before courts, except in cases where the punishment may be imprisonment or confinement for more than one year, as follows: First, depositions of civilian witnesses residing outside the State, Territory, or district in which a court is ordered to sit; second, depositions of persons in the Coast Guard, naval, or military service stationed or residing outside the State, Territory, or district in which a court is ordered to sit, or who are under orders to go outside of such State, Territory, or district; third, where such court is convened on board a vessel of the United States, the depositions of witnesses may be taken and used wherever such witnesses reside or are stationed at such a distance from the place where said court is ordered to sit, or are about to go to such a distance as, in the judgment of the convening authority, would render it impracticable to secure their personal attendance.

How witness may refresh his memory.—A witness may be allowed to refresh his memory by reference to a memorandum, provided it was made by him at the time the fact or transaction to which it refers occurred, or as soon thereafter as to afford the presumption that the memory of the witness was fresh at the time of making it. If the paper is not one made by the witness, it must appear that after inspecting it he can speak from his own recollection; otherwise he can not use it. The privilege of using a memorandum does not authorize the witness to read his evidence from notes previously made.

Witnesses must state facts, not opinions; exceptions.—Witnesses must confine themselves to statements of fact. Opinions are not admissible, except in two cases, as follows:

Opinions drawn from numerous facts of daily observation and experience.—“In the first place, any intelligent witness may testify as to opinions which are themselves conclusions drawn from numerous facts within the daily observation and experience of intelligent persons. Such relate to the demeanor or appearance of a person; his sanity, sobriety, or identity, or his resemblance to another; his physical condition, whether sick or well; his condition as regards emotion or passion, as to anger, hope or fear, joy or sorrow, excitement or coolness, and the like. These are matters of every-day occurrence with respect to which all thoughtful persons form conclusions of fact, to which they are competent to testify in a proper case.”

Opinions of experts.—“Second, the opinions of experts in an art, trade, or profession in which they have attained especial proficiency may, at the discretion of the court and under its direction, be given in evidence. This is permitted for the reason that the opinions in question are technical or scientific in character and are based upon experience that is beyond the knowledge and experience of the average member of a court. Under this head fall opinions as to the effects of particular poisons—that is, certain symptoms having been observed, expert opinions may be received as to the poisons that would produce such effects. In general, certain facts or effects having been established in evidence, the testimony of experts may be admitted as to the causes which would have produced such effects; or as to the laws of nature applicable to certain causes to produce particular effects.”

Experts must be shown to be such.—“The party who introduces expert witnesses must show that they are experts in fact—that is, that they actually possess the technical or scientific knowledge which will assist the court to a correct understanding of the fact in the case. Having established their competency and the necessity for their appearance, they may give opinions as to certain facts, or may testify in answer to a hypothetical question, agreed upon by the parties and approved by the court, the answer to which is calculated to afford the court the assistance of which they stand in need.”

Credibility of one's own witness not to be impeached.—A rule of evidence which frequently arises is that a party is not permitted to impeach the credibility of his own witness; but this must not be construed to mean that he can not introduce other testimony as to a particular fact which is directly contradictory to the testimony of such witness.

Weight to be given evidence of accused.—In weighing the evidence of the accused the Supreme Court has held that “the testimony of the defendants in a criminal case is to be considered and weighed by the jury, taking all the evidence into consideration, and giving such weight to the testimony as in their judgment it ought to have.”

Credibility of testimony determined by court.—The question of the credibility of the testimony given by a witness is a most important one, for upon it rests

the decision of the court as to the proof of the various allegations. When the character for veracity of a witness has been shown to be bad—and whether this has been done or not is a matter within the sound judgment and discretion of the court—his testimony is not necessarily to be wholly disregarded, but is to be considered in connection with the rest of the testimony and such credit given to it as it appears to be entitled to receive. Also, when a witness has been shown to have testified falsely to a certain particular, the maxim "*falsus in uno, falsus in omnibus*," need not always be applied, nor all his testimony disregarded, but it should be weighed in connection with the other testimony, especially when corroborated. The general manner and bearing of a witness is an important consideration in weighing his testimony.

Weight of evidence as affected by number of witnesses.—The relative number of witnesses for the prosecution and defense is by no means decisive in general, as the relative weight of the evidence depends much less upon the number of the witnesses than upon their character, their relation to the case, and the circumstances under which their testimony is given.

Conflicting testimony.—When the testimony is conflicting, the task of weighing it is frequently attended with difficulty, and is sometimes so difficult that disagreement results. As a general rule, however, it may be stated that "the testimony of a single competent and credible witness is sufficient to establish a fact in evidence unless the Constitution, a statutory provision, or a rule of the common law requires otherwise." The Constitution of the United States provides that in a case of treason two witnesses to the same overt act, unless confession is made in open court, are necessary to secure conviction.

Corroboration of confession.—In any criminal case where a confession is made out of court two witnesses are necessary to convict, for otherwise, should the accused deny said confession in court, we would have the oath of one man balanced against the oath of another; but in some jurisdictions this rule has been relaxed so that the testimony of a single credible witness, supported by criminating circumstances, is held to be sufficient to establish guilt beyond a reasonable doubt.

Cumulative evidence unnecessary.—When a fact has been conclusively established, it is unnecessary to consume the time of the court by introduction of additional evidence which is merely cumulative.

Facts asserted established by admission.—Facts asserted by one of the parties may be established by admission on the part of the other; i. e., by admission of the accused or the official prosecutor, formally made in open court. In such case no testimony in proof or disproof of facts so admitted will be received. (But see "Rejection of plea," p. 22, and "Plea of guilty," etc., p. 128.)

Public and private writings.—The question of public and private writings in evidence is a very extended one. A public document is "any written instrument originating in or pertaining to any office or department of the Government," and under this head are included statutes, resolutions, and other acts of the legislature; the treaties, proclamations, orders, regulations, reports, and other utterances of the Executive; and the records, judgments, orders, and decrees of courts of justice. Every public document pertains to, or is said to be of record in, some public office, the chief of which is its general custodian.

Secondary evidence as to public documents.—When it becomes necessary to produce public documents before a court, as inconvenience might and probably would result from the taking of the originals from their customary place of file, secondary evidence as to their contents, in the form of copies duly authenticated under the seal of a department, are admitted in evidence in the same manner as the originals, and, according to the statutes, full credence is to be given to them. (Sec. 882, R. S.)

Public statutes, orders, regulations, etc., noticed judicially.—Coast Guard courts take judicial notice of the laws of the land, and in this way the public statutes of the United States, when produced from the authorized editions of books, are judicially taken notice of, together with the regulations, orders, and circular letters.

Private documents, how identity established, etc.—Private documents differ from public chiefly in the character and amount of testimony necessary to establish their identity, and the burden of such proof rests with the party in whose interest the paper is produced. As a general rule, the best evidence of the contents of a paper is the production of the paper itself, and before parol evidence thereof can be admitted it must be satisfactorily shown that the original can not be produced, having, for example, been lost or destroyed or being in adverse custody. While as a general rule the document speaks for itself, it does not follow that parol evidence may not be introduced in relation thereto, for while it is a well-known rule of evidence that parol evidence may not be used "to add to, subtract from, contradict, or vary the contents of a written document," yet at all times a latent ambiguity in a document may be explained by throwing on it the light of the surrounding circumstances. For this purpose parol evidence is always admissible.

When document is not in hands of party desiring to introduce it.—If the paper to be introduced is in the hands of the opposite party, formal notice to produce must be served on him; if in the possession of a person not a party to the trial, it is produced by a subpoena *duces tecum*. If the party called on fails to produce the paper, then parol evidence as to its contents may be introduced.

Manner of taking oath.—Witnesses called before a court to testify are sworn by the recorder. The oath or affirmation laid down in the statutes must ordinarily be administered before a witness may testify, although this rule as to the prescribed oath is not invariably followed. The Attorney General has rendered an opinion to the effect that a Chinaman produced as a witness might take the oath common among the Chinese, i. e., the breaking of a dish in the court room, and that his testimony would be binding, as the object of an oath is to impress upon the witness the fact that some future punishment will be meted out in case of failure to tell the truth, the whole truth, and nothing but the truth.

Manner of examining witnesses; leading questions, etc.—Witnesses are first examined by the party calling them, then cross-examined by the opposite party. So long as the questions are relevant to the issue considerable latitude is allowed in the direct examination of witnesses, but care must be taken not to ask leading questions, i. e., those which suggest their answers, for they are excluded if objected to by the opposite party. Questions of identification of persons or things which have already been described, introductory questions, questions tending to aid a defective memory, and those asked a witness who appears hostile to the party calling him, are exceptions to this rule.

Cross-examination; latitude allowed.—The cross-examination of a witness is less restricted than the direct, but must in general be confined to the matter brought out in the direct examination, and must not be extended to collateral matter with a view to contradicting the witness by other evidence and thus discrediting him. This rule is, however, subject to the qualifications that the object of cross-examination being to test the credibility of the witness, great latitude is allowed; leading questions are permitted, as well as those which are not relevant to the subject where the purpose is to test the witness's powers of observation, the accuracy of his memory, and the connection of his statement.

Testimony of the accused; not excepted from ordinary rules.—The testimony of an accused party is competent only when presented, as authorized by the act of March 16, 1878, viz, when the party himself requests to be permitted to testify. Such testimony is not excepted from the ordinary rules governing the admissibility of evidence, nor from the application of the usual tests of cross-examination, rebuttal, etc., except that an accused so testifying can not be compelled on direct examination against his objection to criminate himself.

Opinion of Supreme Court.—Where the accused party waives his constitutional privilege of silence, takes the stand in his own behalf and makes his own statement, it is clear that the prosecution has a right to cross-examine him upon such statement with the same latitude as would be exercised in the case of an ordinary witness, as to the circumstances connecting him with the alleged crime. While no inference of guilt can be drawn from his refusal to avail himself of the privilege of testifying, he has no right to set forth to the jury all the facts which tend in his favor without laying himself open to a cross-examination upon those facts. The witness having sworn to an alibi, it was perfectly competent for the Government to cross-examine him as to every fact which had a bearing upon his whereabouts upon the night of the murder, and as to what he did and as to the persons with whom he associated that night. Indeed, we know of no reason why an accused person, who takes the stand as a witness, should not be subject to cross-examination as other witnesses are. * * *

While the court would probably have no power of compelling an answer to any question, a refusal to answer a proper question put upon cross-examination has been held to be a proper subject of comment to the jury (*State v. Ober*, 52 N. H., 459); and it is also held in a large number of cases that when an accused person takes the stand in his own behalf, he is subject to impeachment like other witnesses. If the prosecution should go farther and compel the defendant on cross-examination, to write his own name or that of another person, when he had not testified in reference thereto in his direct examination, the case of *State v. Lurch* (12 Oreg., 99), is authority for saying that this would be error. It would be a clear case of the defendant being compelled to furnish original evidence against himself. *State v. Saunders* (14 Oreg., 300) is also authority for the proposition that he can not be compelled to answer as to any facts not relevant to his direct examination. (*Fitzpatrick v. United States*, 178 U. S., 304.)

Questions witness may decline to answer.—A witness may rightfully decline to answer certain questions, and in such cases should be sustained by the court. These questions are known as "privileged," and are made so as a matter of public policy, with a view to preventing inquisitorial trials, or to forbidding the disclosure of facts, the discovery of which would seriously affect the public business or trespass unduly upon certain private relations, the continued existence of which it is the policy of the law to secure.

The principal cases of privilege are:

1. **State secrets.**—This class covers all the departments of the Government, and its immunity rests upon the belief that the public interests would suffer by a disclosure of state affairs. The scope of this class is very extended, and the question of the inclusion of a given matter therein is decided by a consideration of the requirements of public policy with reference to such matter.

2. **Attorney and client.**—This class includes all confidential communications between a client and his attorney made during the existence of the relationship and having reference thereto, but does not include matters coming to the knowledge of the attorney independently of his employment. The privilege extends to the clerks, stenographers, interpreters, and other employees whose services are necessary to the counsel in the transaction of his business.

3. **Husband and wife.**—This case covers all communications of a confidential nature made during the continuance of marriage. In personal assaults, however, of the one against the other, the testimony of either as against the defendant is admissible.

4. **Criminating questions.**—All questions whose answers would expose the witness to a criminal prosecution or penal action come under the head of privileged questions. This is a principle of the common law which has been affirmed by the Constitution. The witness may, of course, waive this exemption. By the act of February 16, 1909, it is expressly provided that no witness shall be compelled to incriminate himself or to answer any question which may tend to incriminate or degrade him. The privilege can not, of course, be claimed where the criminal liability has ceased—as where the witness has been finally tried for the offense referred to in the question or the prosecution for the same has been barred by the statute of limitations. Nor can it be claimed on the cross-examination where the witness has voluntarily testified, without objection, as to the subject of the question on the examination-in-chief. Nor where the witness has been pardoned for the offense involved in the inquiry. But if the privilege is claimed on the ground that the answer would disgrace or disgrace the witness, and the inquiry is as to matter not involved in the issue on trial—as, for instance, questions affecting the witness's credibility—the fact that criminal liability has ceased by reason of former trial, the bar of the statute of limitations or pardons does not prevent the witness claiming the privilege.

Questions, the answers to which would disgrace or degrade, but not tend to criminate; may be asked on matters material to the issue on trial, but not as to collateral, irrelevant, or immaterial matters—

“A witness may be compelled to answer as to a matter which is material to the issue on trial, notwithstanding his answer may have a tendency to disgrace him or bring him into disrepute; but may refuse to answer where the inquiry is as to collateral, irrelevant, or immaterial matters. Accordingly he may fall back upon his privilege and refuse to answer if his answer could have no effect upon the case except to impair his credibility, unless the answer of the witness will not directly show his infamy, but only tend to disgrace him, in which case he is bound to answer.” (40 Cyc., 2534.)

“He can not, it would seem, refuse to give testimony, which is material and relevant to the issue, for the reason that it would disgrace him or expose him to civil liability.” (2 Bouvier, 1244.)

This privilege does not permit a witness to remain silent “when the answer which the witness may give will *not directly and certainly show his infamy*, but will *only tend to disgrace* (1 Greenleaf Ev., sec. 456), as “it must be seen to have that effect certainly and directly” (2 Bouvier, 1244); that is, the answer must be one which will *clearly degrade* and *not merely tend to degrade*.

Since the proviso of the act of February 16, 1909 (sec. 12, 35 Stat., 622), under the heading “Criminating questions” is declaratory of the common law on the subject, the common-law principles expressed above are not inconsistent with this proviso and apply to all witnesses who appear before any kind of a Coast Guard court.

How the privilege is claimed—

“The proper course in any case where a witness claims the privilege of declining to answer questions on the ground of self-crimination (or degradation) is for the witness to state in specific terms why he refuses to answer, and then the court must decide whether or not the privilege should be allowed.” “The witness should not be required to explain fully how his answer would tend to criminate (or degrade) him.” (40 Cyc., 2550.) The grounds on which the refusal is based, that is, whether criminating or degrading, as well as the question, should appear in the record. (McKelvey, p. 376.)

Privilege is a personal one and may be claimed by the witness only.—The privilege may be claimed by the witness but is strictly personal to him, and if he does not claim it for himself no one else can claim it for him. (40 Cyc., 2548.) The accused can not claim the privilege for another who is a witness (40 Cyc., 2548), nor can such claim be interposed by counsel for the accused (40 Cyc., 2548), nor should the court interfere, but should leave the matter with the witness to avail himself of his privilege, or not, as he sees fit. (3 Jones on Evidence, p. 893.)

Court, in proper cases, may inform the witness of his privilege.—In proper cases, however, the court may, in its discretion, inform the witness of his rights.

While there appears to be no objection, if it be deemed necessary, to cautioning an ignorant witness against incriminating himself, when he voluntarily takes the stand, such caution should be properly worded; that is, if he is without counsel he may, if deemed necessary, be advised that in the examination-in-chief he need not answer questions which will tend to criminate him; but, if answered on the direct examination, he must submit to a full cross-examination on the subject matter that is brought out, notwithstanding the answers may tend to criminate or disgrace him.

Accused may not object.—The accused can not object to such testimony and has no right to insist upon the privilege and require the court to exclude the evidence on that ground. The witness may waive his privilege and testify in spite of any objection coming from the accused or his counsel. If the witness claims his privilege but is nevertheless required to testify, it is a matter exclusively between the court and the witness. Under such circumstances the accused is in no worse predicament than if the witness had come forward voluntarily to testify or had failed to avail himself of his privilege.

How the privilege is waived:

"The witness may waive the privilege by *failing* to make timely objection. For still stronger reasons, the privilege is waived if no objection whatever is made." (3 Jones on Evidence, p. 893.)

"The privilege being for the protection of the witness, he may waive it, but once having elected to do so he is not permitted to stop, but must go on and make a full disclosure" (Dudley, p. 290), although in so doing he exposes himself to a criminal charge.

If directed by the court, the witness must answer the question or be in contempt.—If the witness refuses to answer a question, the official prosecutor may request the court to require the witness to answer on the ground that the answer would not tend to criminate him, or would not tend to degrade him, or, admitting that the answer would degrade him, that the question which the witness declined to answer was as to a subject which is material to the issue on trial and must be answered. If the court sustains the official prosecutor, the witness must answer or be in contempt.

If the answer, made under compulsion, is criminating, it can not be used in evidence against the witness subsequently.—If the privilege claimed by the witness be on the ground of self-crimination, and the

"court should compel him to answer the question, deemed proper by it, the answer thereto, if it should prove criminating, can not be given in evidence against him." (Dudley, p. 289.) "The general rule certainly is that evidence given or statements made by a party under compulsion or order of a court, tending to criminate himself, can not be put in evidence on a criminal proceeding against him." (U. S. v. Prescott, 2 Dill., 405; 27 Fed. Cas., 16085.)

Court decides whether the privilege should be allowed.—The question of whether an answer might criminate or tend to criminate or degrade a witness is a preliminary question of fact for the court to decide.

"A witness can not be left to say for himself when he will or will not answer questions and then defend himself from punishment by hiding behind his privilege." (McKelvey, p. 380.)

"The witness will not be required to explain in what manner the answer will criminate (or degrade) him, as this would defeat the object of the rule." (Jones on Evidence, p. 889.)

"A witness is not the sole judge whether a question put to him, if answered, may tend to criminate (or degrade) him, * * * but if the fact once appear that the witness is in danger, great latitude will be allowed him in judging for himself the effect of any particular question." (2 Bouvier, 1244.)

"It is not the rule, however, that the privilege must always be extended to the witness, if asked. While the court should be extremely careful to protect the witness in his right, yet the *danger must be something more than a merely fanciful or imaginary danger*. It must be real, with reference to the probable operation of the law in the ordinary course of things, and not merely speculative, having reference to some remote and unlikely contingency. The court must see, from the circumstances of the case and the nature of the evidence which the witness is called to give, that there is *reasonable ground to apprehend danger* to the witness from his being compelled to answer, and that it would naturally subject him to actual punishment." (3 Jones on Evidence, pp. 888-889.)

Status of accused, when voluntarily on the stand in his own behalf, is the same as an ordinary witness.—The law provides that the accused shall at his own request but not otherwise be a competent witness and shall be allowed to testify in his own behalf.

"Parties to the cause testifying on their own offer are considered as thereby waiving their privilege as to the subject matter of their testimony in chief and must submit to a full cross-examination thereon, notwithstanding the answers tend to criminate or disgrace them." (Reynolds' Stephen on Evidence, p. 172, art. 120.)

"Where an accused party waives his constitutional privilege of silence, takes the stand in his own behalf, and makes his own statement, it is clear that the prosecution has a right to cross-examine him upon such statement with the *some latitude* as would be exercised in the case of an *ordinary witness, as to the circumstances connecting him with the alleged crime*. While no inference of guilt can be drawn from his refusal to avail himself of the privilege of testifying, he has no right to set forth to the jury all the facts which tend in his favor without laying himself open to cross-examination upon those facts. * * * Indeed, we know of no reason why an accused person who takes the stand as a witness should not be subject to cross-examination as other witnesses are." (Fitzpatrick v. U. S., 178 U. S. 304.)

It is not allowable to make comment, especially hostile comment, of the failure of the accused to take the stand in his own behalf, and his failure to make such request shall not create any presumption against him.

Impeachment of credibility of witness.—The credibility of a witness may be attacked in his cross-examination, or his testimony may be rebutted by other witnesses. In addition to this his reputation for truth and veracity may be impeached. By this is meant the general reputation of the party in the community in which he lives and is understood by those by whom he is best known. When the impeachment is to be made by the testimony of other witnesses, care must be taken to lay the groundwork for such impeachment while the witness is on the stand, otherwise it is not admissible.

Statements of witness outside of court.—A witness may also be shown to have made statements outside of court inconsistent with those made under oath, but the statements in question must have been relevant to the issue, and it is proper, where such contradiction is intended, to direct the attention of the witness himself particularly to the matter while on the stand.

Plea of guilty does not exclude evidence for prosecution.—A plea of guilty does not necessarily exclude evidence for the prosecution. Where the court has discretionary power as to the punishment to be awarded it is proper that it should have full knowledge of all the circumstances attending the offense. The reviewing authority is also entitled to this knowledge, and to this end it is proper for a general court to take evidence after a plea of guilty, and for a

minor court when the accused makes an oral statement contrary to a plea of guilty.

Accused may cross-examine.—When evidence of this character is introduced after a plea of guilty, the accused has the same right to cross-examine the witnesses and to offer evidence in rebuttal as though he had pleaded not guilty.

Statement inconsistent with plea.—It frequently occurs that an accused, not being familiar with the effect of his plea, will plead "guilty," and no evidence being introduced, will submit to the court a statement inconsistent with his plea. It is the duty of the court in such cases to consider the statement and plea together; and if guilt is not conclusively admitted, it will direct that a plea of "not guilty" be entered and proceed to trial.

Examples of statement inconsistent with plea.—One of the familiar instances of a statement inconsistent with a plea is presented where the accused, charged with desertion, pleads "guilty" and then submits a statement in which he denies that at any time he had any intention permanently to abandon the service.

Time limitation as to punishment.—(1) No person shall be tried by a Coast Guard court, or otherwise punished, for any offense connected with the service (except as provided in the following paragraph) which appears to have been committed more than two years before the issuing of the order for such trial or punishment, unless by reason of having absented himself, or of some other manifest impediment, he shall not have been amenable to justice within that period.

(2) In case of the desertion of an enlisted person, the foregoing limitation of two years shall not begin until the end of the term for which such person was enlisted.

Witnesses may be recalled and evidence introduced out of usual order.—While the proper and orderly sequence of the examination of witnesses is that set forth in the "Procedure of general courts" (*ante*), the court may, in the interest of truth and justice, call or recall witnesses, or permit their recall at any stage of the proceedings. Evidence may also be admitted entirely out of its usual and proper place, and, in fact, the court may, even after a case is closed by either party, permit it to be reopened for the introduction of material evidence. This should be done in the presence of both parties, and the opposite party has the usual right to cross-examine and to offer evidence in rebuttal.

To what facts evidence may be given:

1. To the precise fact in dispute.
2. To the act, declaration, or omission of a party as evidence against such party.
3. An act or declaration of another, which act or declaration would naturally accompany the situation, considering the relative conduct of the parties.
4. After proof of a conspiracy, the act or declaration of a conspirator relating to the conspiracy.
5. The act, declaration, or omission forming part of a transaction.
6. The testimony of the witness deceased, or out of the jurisdiction of the court, or who is unable to testify, which was given in a former action between the same parties relating to the same matter.
7. The opinion of a witness respecting the identity or the handwriting of a person when he has knowledge of the person or of the handwriting. "In any proceeding before a court or judicial officer of the United States where the genuineness of the handwriting of any person may be involved, any admitted or proved handwriting of such person shall be competent evidence as a basis for comparison by witnesses, or by the jury, court, or officer conducting such proceeding to prove or disprove such genuineness." (Act approved Feb. 26, 1913.)

8. The opinion of a witness on a question of science, art, or trade, when the witness is skilled therein.

9. The opinion of a subscribing witness to a writing respecting the mental sanity of the signer, his sanity being in dispute.

10. The opinion of an intimate acquaintance respecting the sanity of a person, the reason for the opinion being given.

11. Common reputation existing previous to the controversy respecting facts of a public or general interest more than 30 years old.

12. Facts which serve to show the credibility of a witness; such as his general reputation for veracity, his motives, or contradictory statements made by him relative to the facts in issue.

13. Any other facts from which the points in issue may be logically inferred.

14. The state of a witness's feelings to the parties and his relationship may always be proved for the consideration of the court.

Preponderance of evidence.—In determining where the preponderance, or superior weight, of the evidence lies the court may consider:

1. The witness's manner of testifying.

2. His intelligence.

3. His means and opportunities of knowing the facts to which he testifies.

4. The nature of the facts to which he testifies.

5. The probability or improbability of his testimony.

6. His interest or want of interest.

7. His personal credibility, so far as it legitimately appears upon the trial.

8. The number of witnesses; though the preponderance is not necessarily with the greatest number.

9. All the facts and circumstances of the case.

Original entries.—When an entry is repeated in the regular course of business, one being copied from another at or near the time of the transaction, all the entries are equally regarded as original.

Alterations in a writing.—The party producing a writing as genuine which has been altered in a part material to the question in dispute, and which appears to have been altered after its execution, must account for the appearance of the alteration before the writing will be received in evidence. He may show that the alteration—

1. Was made by another without his concurrence.

2. Was made with the consent of the parties affected by it, or otherwise properly or innocently made.

3. Did not change the meaning of the language.

Entries and writing of a deceased person.—Entries and writings of a deceased person who was in a position to know the facts therein stated and who made the entries at or near the time when the facts occurred may be read as *prima facie* evidence of such facts—

1. When the entry is against the interest of the deceased person who made it.

2. When it was made in a professional capacity in the ordinary course of professional conduct.

3. When it was made in the performance of a duty enjoined by law, or in the course of the person's ordinary and regular duties.

Disputable presumptions.—It is presumed to be true until disproved by evidence that—

1. A person is innocent of crime or wrong.

2. An unlawful act was done with unlawful intent.

3. A person takes ordinary care of his own concerns.

4. Money paid by one to another belongs to the latter.
5. A thing delivered by one person to another belongs to the latter.
6. A person owns the property which is in his possession.
7. A person acting in a public office was regularly appointed or elected to it.
8. Official duty has been regularly performed.
9. Private transactions have been fair and regular.
10. A writing is correctly dated.
11. A letter duly directed and mailed was received in the regular course of the mail.
12. There is identity of person from identity of name, depending upon circumstances.
13. A person not heard from in seven years is dead.
14. Acquiescence resulted from a belief that the thing acquiesced in was conformable to the law or to the fact.
15. Things have happened according to the ordinary course of nature and the ordinary course of life.
16. A man and woman deporting themselves as husband and wife have entered into a lawful contract of marriage.
17. A child born in lawful wedlock, there being no divorce, is legitimate.
18. A thing once proved to exist continues as long as is usual with things of that nature.
19. The law has been obeyed.
20. A printed or published book purporting to contain reports of cases adjudged in tribunals of the State or country where the book is published contains correct reports of such cases.
21. A book purporting to be printed or published by public authority was so printed or published.
22. There was a good and sufficient consideration for a written contract.

Are rules of evidence binding on courts-martial?—A military court should, in general, as the wisest, safest, and fairest proceeding, observe the well-established rules of evidence. (Winthrop, vol. 1, p. 567.)

Courts-martial are bound, in general, to observe the fundamental rules of law and principles of justice observed and expounded by the civil judicature, and are also, in general, to be governed upon trials by the rules of evidence of the common law as recognized and followed by the criminal courts of the country. * * * Inasmuch as the rules of evidence are in the main the result of the best wisdom and experience of the past, approved and ratified by modern intelligence, it is clear that military tribunals can not, in general, safely assume to reject or ignore them. * * * If the effect of a technical rule is found to exclude material facts, or otherwise to obstruct a full investigation, the rule may and should be departed from. Proper occasions, however, for such departure will be exceptional and infrequent. (Winthrop, p. 472.)

Courts-martial having cognizance only of criminal offenses are bound, in general, by the rules of evidence administered in criminal cases in courts of common law; the only exceptions being those which are of necessity created by the nature of the service, by the constitution of the court, and by its course of proceedings. (Greenleaf, vol. 3, pars. 469, 476.)

As no rules of evidence are specially prescribed by Congress for the observance of courts-martial, it must be deemed that such courts are contemplated to be governed, in general, by the same rules of evidence which govern the ordinary courts of criminal jurisdiction. These rules are prescribed by the common law, excepting, of course, where otherwise provided by statute,

in which case the latter prevail. (Opin. Atty. Gen. Brewster in Whittaker's case, Mar. 17, 1882.)

The rules of evidence, established by a long line of decisions, are the only safe guides for the ascertainment of truth, and can not safely be purposely disregarded by military courts. (G. C. M. Order 6, Div. Army Atlantic, 1891.)

The rules of evidence are substantially the same in criminal as in civil procedure. (Greenleaf, vol. 1, par. 65.)

Facts are best established before a tribunal by the steady operation of fixed rules; and these must be of such a general character that they may be applied to the establishment of all matters of fact whatever their nature.

Such are the existing rules of evidence; they are the collected wisdom of past experience. Their application insures justice and impartiality in the greatest number of cases, best secures a man from being divested of his rights at the pleasure of a tribunal, and shortens a trial by excluding irrelevant evidence and by bringing to an issue the points in dispute.

It is not always possible for a tribunal to arrive at a perfect knowledge of the truth in each particular case, and yet necessities require that a judgment be rendered.

Directory regulations.—Executive regulations are not, in general, imperative to the extent of rendering actually invalid acts provided for by the regulations, but not done in compliance with their requirements. Such regulations are, in general, directory only.

Depending upon the quality of not being of the essence or substance of the thing required, compliance being rather a matter of convenience and the direction being given with a view simply to proper, orderly, and prompt conduct of business, they seem to be generally understood as mere instructions for the guidance and government of those on whom the duty is imposed, or, in other words, as directory only. (Endlich on Interpretation of Statutes, par. 436; Dig. Opins. J. A. G. Army, p. 754.)

Many statutory requisitions, intended for the guidance of officers in the conduct of business, do not limit their power or render its exercise in disregard of the requirements ineffectual. Such are regulations designed to secure order, system, and dispatch in proceedings. Provisions of this character are not mandatory unless accompanied by negative words importing that the acts shall not be done in any other manner or time than designated. (Anderson's Law Dictionary, Dig. Opins. J. A. G. Army, p. 755.)

The above rules have been applied to the construction of Army Regulations. (Dig. Opins. J. A. G. Army, p. 755.)

In the administration of military affairs, as in other branches of government, precedents are of great value; and an authoritative construction once given to a regulation should thereafter be given great weight. (Dig. Opins. J. A. G. Army, p. 758.)

Affidavits.—1. Affidavits, or statements of persons not subjected to cross-examination, are entirely incompetent as evidence before courts-martial.

2. A letter from a post adjutant introduced in evidence was held improperly admitted, being, though official, a mere *ex parte* statement.

3. Certain *ex parte* statements contained in a record of a board of survey were held improperly admitted in evidence upon a trial by court-martial.

4. Affidavits, however, have sometimes been admitted by courts-martial in the absence of objection by a party. But notwithstanding the consent of parties a court-martial could rarely, if ever, with safety receive evidence of this character, which must, in general, be too incomplete to serve as a reliable basis either for its own judgment or the action of the reviewing authority. (Winthrop, p. 536.)

BOARDS OF INQUIRY.

RECORD OF PROCEEDINGS

OF A

BOARD OF INQUIRY

CONVENED AT

U. S. COAST GUARD DEPOT,

SOUTH BALTIMORE, MD.,

BY ORDER OF

THE SECRETARY OF THE TREASURY

(or the Acting Secretary of the Treasury)

(or the Assistant Secretary of the Treasury)

(or the Captain Cominadant, U. S. Coast Guard)

(or the Division Commander, ——— Division)

TO INQUIRE INTO

JUNE —, 19—.

TREASURY DEPARTMENT,
UNITED STATES COAST GUARD,
Washington, June ———, 1916.

Capt. B——— C. D———, U. S. Coast Guard,
Commandant Coast Guard Depot, South Baltimore, Md.

Subject: Convening order, board of inquiry.

SIR: 1. A board of inquiry, consisting of yourself as president, and of First Lieut. of Engineers E. F. G———, U. S. Coast Guard, and First Lieut. H. I. K———, U. S. Coast Guard, as additional members, is hereby ordered to convene at the Coast Guard Depot, South Baltimore, Md., at 10 a. m. on Monday, June 26, 1916, or as soon thereafter as practicable, for the purpose of inquiring into (here insert object of inquiry).

2. Second Lieut. L. O. P———, U. S. Coast Guard, is detailed for duty as recorder of the board of inquiry. This officer is not a member of the board.

3. Upon the conclusion of the inquiry the board will report its proceedings and the testimony taken, with a full statement of all the facts which it may deem to be established by the evidence adduced, together with its opinion as to what further proceedings, if any, should be had in the matter.

4. If the board shall be of the opinion that further proceedings should be had in the matter, it will include in its report a recommendation as to the person or persons against whom, and the specific matter upon which, such proceedings should be had.

Respectfully,

W—— M. W——, *Secretary.*
(A)

Recommendation.—The report of the board shall contain a recommendation only when so ordered.

TREASURY DEPARTMENT,
UNITED STATES COAST GUARD,
Washington, June ——, 1916.

Capt. D. E. F——, U. S. Coast Guard,
President Board of Inquiry,
Coast Guard Depot, South Baltimore, Md.

Subject: Right of party to inquiry to be present.

SIR: 1. Referring to department order of this date, convening a board of inquiry, of which you are president, to meet at the Coast Guard Depot, South Baltimore, Md., on June 26, 1916, for the purpose of inquiring into (here state purpose), you are advised that —— has been informed of his right to be present, to cross-examine witnesses, and offer such evidence as he may desire.

2. If, during the progress of the inquiry, it shall appear that others than —— are entitled to appear as defendants, they will be called before the board and informed of their right to be present and cross-examine witnesses, and offer evidence before the board should they desire to do so.

Respectfully,

W—— M. W——, *Secretary.*
(B)

TREASURY DEPARTMENT,
UNITED STATES COAST GUARD,
Washington, June ——, 1916.

Capt. B—— C. D——, U. S. Coast Guard,
President Board of Inquiry,
Coast Guard Depot, South Baltimore, Md.

Subject: Authorizing employment of stenographer.

SIR: You are hereby authorized to employ, at the customary market rates, to be agreed upon in writing before any services are rendered, such stenographic assistance as may in your judgment be necessary (see general court).

Respectfully,

X—— Y. Z——, *Captain Commandant.*
(C)

FIRST DAY.

COAST GUARD DEPOT,
South Baltimore, Md., Monday, June 26, 1916.

The board met at 10 a. m.

Notes and variations.—See notes and variations under general court procedure.

Present:

Capt. B—— C. D——, U. S. Coast Guard, president.

First Lieut. of Engineers E—— F. G——, U. S. Coast Guard, member.

First Lieut. H—— I. K——, U. S. Coast Guard, member.

Second Lieut. L—— O. P——, U. S. Coast Guard, recorder.

VAR. Absent: First Lieut. H—— I. K——, U. S. Coast Guard, member, owing to (or for reasons unknown, due inquiry having been made by the president).

The recorder read a certificate accounting for the absence of First Lieut. H—— I. K——. U. S. Coast Guard, which is appended, marked "—."

The board then took a recess until —— [or addressed a letter (or telegram) to the convening authority, a copy of which is appended, marked "—"] (or adjourned until —— to await the arrival of the absent member).

The board was cleared, and the convening order, together with the accompanying instructions, were read aloud. All other matters preliminary to the inquiry were determined, and, after deciding to sit with open doors, the board was opened.

VAR. All other matters preliminary to the inquiry were determined, and the president announced that, in obedience to orders, the board would sit with closed doors (or decided to sit with closed doors).

Withdrawal of recorder.—The recorder of a board of inquiry does not withdraw when the board is cleared.

The president, having received authority, introduced as stenographer (clerk or reporter) —— ———.

VAR. F—— E. D——, stenographer (clerk, interpreter), entered by authority contained in letter, copy appended, marked "—."

The defendant, Second Lieut. N—— O. G——, U. S. Coast Guard, attached to and serving on board the U. S. Coast Guard cutter ——, appeared and, having received permission, introduced Third Lieut. R—— S. T——, U. S. Coast Guard, as his counsel.

Defendant's right to be present.—The convening authority shall notify the defendant of his right to be present during the investigation.

When there is no defendant.—When the board is convened to inquire into certain facts, and no person is placed in the position of defendant, the record will necessarily omit all that relates to such a defendant and proceed with the administration of the oaths.

When proceedings indicate a defendant.—If it should appear at any stage of the proceedings that any other person or persons than those named by the convening authority are implicated, they should be called before the board, informed of all the evidence which tends to implicate them, and instructed as to their right to cross-examine witnesses and offer evidence in defense.

VAR. 1. The board received from ——— a communication, which was read and appended, marked “—,” stating that the defendant (in case of more than one defendant, give names) was unable to appear, owing to ———. (Here give reason; if illness, a medical certificate must be presented, read, and appended. This communication may be made personally by any competent person.)

The board then, at ———, adjourned until ———. (See adjournment.)

VAR. 2. The defendant, etc., appeared and stated that he did not desire counsel.

VAR. 3. The complainant, Capt. W—— U. V——, U. S. Coast Guard, appeared and, having received permission, introduced First Lieut. Q—— P. R——, U. S. Coast Guard, as his counsel.

Complaint communicated to parties.—The board having decided on its mode of procedure, the defendant, and the complainant, if there be one, should be called and the complaint or subject to be investigated communicated to them.

The recorder read aloud the convening order and accompanying papers, originals appended, marked “—,” “—,” etc., and the authorization for the employment of a stenographer, certified copy appended, marked “—.”

Challenge.—Officers serving on boards of inquiry are not subject to challenge.

The members, recorder, and stenographer (clerk, interpreter) were duly sworn.

Form of oath for member.—You, A. B., do solemnly swear (or affirm) well and truly to examine and inquire, according to the evidence, into the matter now before you without partiality, and to truly report thereon. So help you God.

Form of oath for recorder who is also member.—You, C. D., do solemnly swear (or affirm) well and truly to examine and inquire, according to the evidence, into the matter now before you without partiality, and to truly report thereon; and that you will keep a true record of the proceedings of, and the evidence given to, this board in the case now about to be inquired into. So help you God.

Form of oath for recorder when not member.—You, E. F., do solemnly swear (or affirm) that you will keep a true record of the proceedings of, and evidence given to, this board in the case now about to be inquired into. So help you God.

Form of oath for stenographer.—You, S. T., do solemnly swear (or affirm) that you will faithfully perform the duty of clerk or reporter in aiding the recorder to take and record the proceedings of this board, either in shorthand or ordinary manuscript, and that you will not disclose or divulge any of the proceedings until final action by the convening authority has been taken thereon, unless required so to do before a court of justice in due course of law. So help you God.

Oath administered to interpreter.—You, R. T., do solemnly swear (or affirm) that you will truly interpret the testimony of witnesses in the case now in hearing before this board. So help you God.

VAR. (Postponement of inquiry.) The defendant (complainant) applied for a postponement of the inquiry on the ground (here give reasons). The board was cleared, and after due deliberation was opened and its decision announced that the inquiry should be postponed until ———. (or) the inquiry should proceed, (or) it would await the action of the convening authority, who was informed that the defendant (complainant) desired a postponement of the inquiry until ——— for the reason (here give reasons offered for the postponement).

To meet daily.—Boards of inquiry shall meet daily, Sundays excepted, unless otherwise directed.

All witnesses were directed to withdraw, and the inquiry proceeded as follows:

A witness for the Government was duly sworn.

Form of oath for witness.—You, A. B., do solemnly swear (or affirm) that the evidence you shall give in the case now before this board shall be the truth, the whole truth, and nothing but the truth, and that you will state everything within your knowledge in relation to the matter under inquiry: So help you God (or, this you do under the pains and penalties of perjury).

Examined by the president:

1. Q. What is your name, rank (rating), and present station?

A. * * *

2. Q. * * *

A. * * *

Examined by the complainant (if there be one):

23. Q. * * *

A. * * *

Cross-examined by the defendant:

30. Q. * * *

A. * * *

Reexamined by the president:

41. Q. * * *

A. * * *

Examined by the board:

52. Q. * * *

A. * * *

The witness verified his testimony, was duly warned and withdrew.

Correction of testimony.—See variations under general courts for method of having witness pronounce testimony correct.

Parties may introduce evidence.—When the president has introduced all the evidence on the part of the Government, the defendant (complainant, if there be one) may introduce evidence in the same manner as the accused in a general or minor court.

Questions by members.—After the preliminary examination and cross-examinations, any member of the board may question the witness. If there is no objection made, the record shall show that it is a question by the board. If a question by a member is objected to and the objection is sustained by the board, the record shall show that it is a question by a member.

The board then, at ——— o'clock —. m., adjourned until — o'clock —. m. to-morrow, the — instant.

L——— O. P———,
Second Lieutenant, U. S. Coast Guard, Recorder.

SECOND DAY.

COAST GUARD DEPOT,
South Baltimore, Md., Tuesday, June 27, 1916.

The board met at — a. m., pursuant to adjournment of yesterday.

Present: All the members (the recorder, if not a member), the stenographer, and the parties to the inquiry.

The record of proceedings of yesterday (*or*, the previous day) was read and approved.

VAR. See general court proceedings.

A witness called by the president was duly sworn.

Examined by the president:

1. Q. * * *

A. * * *

There being no further questions to ask, the witness verified his testimony, was duly warned and withdrew.

The president had no more witnesses to call.

Evidence for defendant.—The president shall ask the person whose conduct is the subject of inquiry if he has anything to offer or any evidence to produce.

A witness called by the defendant was duly sworn.

Examined by the defendant:

1. Q. * * *

A. * * *

Cross-examined by the President:

10. Q. * * *

A. * * *

Reexamined by the defendant:

18. Q. * * *

A. * * *

Examined by the board:

31. Q. * * *

A. * * *

The witness verified his testimony, etc.

Defendant as witness.—The defendant shall be allowed, if he so desire, to testify in his own behalf, and he has the same right to decline to answer any questions which may tend to incriminate himself as has a witness before a Coast Guard court. If the defendant should lay before the board a general statement or defense, he is forbidden to publish it, or cause or permit its publication, until final action has been taken in his case.

The defendant had no further witnesses to call.

The board had no witnesses to call.

Arguments.—At this point the arguments are made, or statements submitted, by the complainant and defendant. (See general court procedure for official prosecutor and accused.)

At ——— o'clock the inquiry was finished and the parties thereto withdrew.

The board having thoroughly inquired into all the facts and circumstances connected with the allegations contained in the papers attached to the convening order, and having considered, with closed doors, the evidence adduced, submits a statement of the facts which it deems to be established.

FINDING.

The allegations contained in the papers attached to the convening order (allegations and complaints made by Capt. W—— U. V——, U. S. Coast Guard) were to the following effect: (Here state them concisely.)

Of these allegations the board finds that the following are not sustained by the evidence adduced, namely: (Here insert them in full.)

Allegations and complaints made by First Lieut. O—— N. T——, U. S. Coast Guard, against Second Lieut. N—— O. G——, U. S. Coast Guard, are as follows: (Here state them concisely.)

Of these several allegations and complaints, the board finds that the one which accuses Second Lieut. N—— O. G——, U. S. Coast Guard, of ——— ———, is not sustained by the evidence adduced.

As to the remaining allegations, the board finds the following established by the evidence, namely: (Here insert those found established.)

B—— C. D——,
Captain, U. S. Coast Guard, President.
 E—— F. G——,
First Lieutenant of Engineers, U. S. Coast Guard, Member.
 H—— I. K——,
First Lieutenant, U. S. Coast Guard, Member.
 L—— O. P——,
Second Lieutenant, U. S. Coast Guard, Recorder.

Finding, how signed.—The finding shall be signed by all the members, the vote of the majority being the vote of the board.

Opinion and recommendation, how signed.—The opinion and recommendation of the majority shall be recorded as the opinion and recommendation of the board, but is signed only by the members concurring therein. Those not concurring shall submit a minority opinion and recommendation, stating wherein they disagree with

the opinion and recommendation of the majority, which shall be signed immediately after that of the majority.

Recording finding and opinion.—The finding and opinion of the board need not be in the handwriting of the recorder.

OPINION AND RECOMMENDATION.

In the opinion of the board no further proceedings should be had against Second Lieut. N—— O. G——, U. S. Coast Guard, for the reason that of the allegations against him which have been sustained but one, that of ——, is of sufficient weight to justify such further action, and (here state reason why further action is not necessary or not desirable, if such be the case).

And in the opinion of the board further proceedings should be had against First Lieut. O—— N. T——, U. S. Coast Guard, and the board recommends that that officer be tried by a general court for the following specific acts, namely:

For restoring Second Lieut. —— to duty when he, the said Second Lieut. ——, had been suspended by Second Lieut. N—— O. G——, U. S. Coast Guard, in the clear exercise of his (Second Lieut. G——'s) prerogative as commanding officer, thereby tending to injure the discipline of the ship.

For publicly reprimanding Second Lieut. G—— in the presence of First Lieut. of Engineers —— and Third Lieut. ——, U. S. Coast Guard, and thereby subverting the discipline of the ship.

The record of proceedings of this, the second day of the inquiry, was read and approved, the board being closed during the reading of so much thereof as pertains to the proceedings in closed board.

B—— C. D——,

Captain, U. S. Coast Guard, President.

E—— F. G——,

First Lieutenant of Engineers, U. S. Coast Guard, Member.

H—— I. K——,

First Lieutenant, U. S. Coast Guard, Member.

L—— O. P——,

Second Lieutenant, U. S. Coast Guard, Recorder.

The board, at — o'clock — m., adjourned to await instructions from the convening authority.

B—— C. D——,

Captain, U. S. Coast Guard, President.

L—— O. P——,

Second Lieutenant, U. S. Coast Guard, Recorder.

Revision.—The proceedings may be revised as often as the reviewing authority may deem necessary, any of the witnesses may be recalled and reexamined with a view to elicit further information, and new evidence may be received and recorded, provided, in either case, that all parties to the inquiry are present, if they so desire.

RECORD OF PROCEEDINGS
OF A
BOARD OF INQUIRY
CONVENED ON BOARD THE
U. S. COAST GUARD CUTTER TAHOMA

AT BOSTON, MASS.,

BY ORDER OF

THE SECRETARY OF THE TREASURY

(or the Acting Secretary of the Treasury)

(or the Assistant Secretary of the Treasury)

(or the Captain Commandant, U. S. Coast Guard)

(or the Division Commander, ——— Division)

TO INQUIRE INTO

The grounding (or loss) of the U. S. Coast Guard cutter ———
on ———, 19— (or the late U. S. Coast Guard cutter ———)
(or whatever may be the subject of the inquiry).

JUNE —, 19—.

TREASURY DEPARTMENT,
UNITED STATES COAST GUARD,
Washington, June —, 1916.

Senior Capt. B. C. D——, U. S. Coast Guard,
Commanding Eastern Division, Boston, Mass.

Subject: Convening order, board of inquiry.

SIR: 1. A board of inquiry, consisting of yourself as president, and of Capt. of Engineers E. F. G——, and Capt. H. I. K——, U. S. Coast Guard, as additional members, is hereby ordered to convene on board the U. S. Coast Guard cutter *Tahoma*, at 10 o'clock a. m., on Monday, June —, 1916, or as soon thereafter as practicable, for the purpose of inquiring into the circumstances connected with the grounding (loss) of the U. S. Coast Guard cutter ———, at ———, on May —, 1916.

2. Second Lieut. L. O. P——, U. S. Coast Guard, is detailed for duty as recorder of the board of inquiry. This officer is not a member of the board.

3. The board will also report whether or not the grounding (loss) of said vessel was, on the occasion named, in any respect due to fault or negligence on the part of any of the officers or members of the crew of said vessel; and if so, the names of such officers or members of the crew, and in what respect and to what extent any or either of them were so at fault or negligent.

4. (Instructions to board.)

5. If the board shall be of the opinion that further proceedings shall be had in the matter, it will include in its report a succinct statement as to the person or persons against whom, and the specific matter upon which, such proceedings should be had.

Respectfully,

A—— M——, *Secretary.*
(A)

TREASURY DEPARTMENT,
UNITED STATES COAST GUARD,
Washington, June —, 1916.

Senior Capt. B. C. D——, U. S. Coast Guard,
President Board of Inquiry, Boston, Mass.

Subject: Right of parties to inquiry to be present.

SIR: 1. Referring to department order of this date, convening a board of inquiry, of which you are president, to meet on the U. S. Coast Guard cutter *Tahoma*, at Boston, Mass., on June —, 1916, for the purpose of inquiring into (here state purpose), you are advised that Capt. ——, U. S. Coast Guard, commanding the ——; First Lieut. ——, U. S. Coast Guard, the executive officer; and Second Lieut. ——, U. S. Coast Guard, have been informed of their right to be present during the inquiry, to cross-examine witnesses, and offer such evidence as they may desire.

2. If during the inquiry it shall appear that others than those mentioned are entitled to appear as defendants, they will be called before the board and informed of their right to be present, to cross-examine witnesses, and offer evidence before the board should they desire to do so.

Respectfully,

A—— M——, *Secretary.*
(B)

TREASURY DEPARTMENT,
UNITED STATES COAST GUARD,
Washington, June —, 1916.

Senior Capt. B. C. D——, U. S. Coast Guard,
President Board of Inquiry, Boston, Mass.

Subject: Authorizing employment of stenographer.

SIR: You are hereby authorized to employ, at the customary market rates, to be agreed upon in writing before any services are rendered, such stenographic assistance as may in your judgment be necessary (see general court).

Respectfully,

X—— Y. Z——,
Captain Commandant.
(C)

FIRST DAY.

U. S. COAST GUARD CUTTER TAHOMA,
Boston, Mass., Monday, June —, 1916.

The board met at — o'clock — m., with closed doors.

Present:

Senior Capt. B. C. D——, U. S. Coast Guard, president;
 Capt. of Engineers E. F. G——, U. S. Coast Guard, member;
 Capt. H. I. K——, U. S. Coast Guard, member; and
 Second Lieut. L. O. P——, U. S. Coast Guard, recorder.

The recorder read aloud the convening order (with amendments thereto), together with the accompanying instructions. All other matters preliminary to the inquiry were determined, and, after decision to sit with open (closed) doors, the board was opened.

F. E. D—— entered and was introduced as stenographer.

VAR. Ship's writer F. E. D——, detailed as clerk, entered.

Capt. ——, U. S. Coast Guard; First Lieut. ——, U. S. Coast Guard; and Second Lieut. ——, U. S. Coast Guard, appeared before the board.

The recorder read aloud the convening order, with the accompanying papers, originals appended, marked “—” and “—,” and the authorization for the employment of a stenographer, certified copy appended, marked “—.”

Challenge.—Officers serving on boards of inquiry are not subject to challenge.

The members, recorder, and stenographer were duly sworn.

Oaths.—The form of oaths are the same as those under ordinary boards of inquiry.

The board then took a recess until — o'clock — m., when it reconvened on board the U. S. Coast Guard cutter ——. Present: All the members, the recorder (if not a member), the stenographer (clerk), and the parties to the inquiry.

When recess not necessary.—If the board originally convened on the vessel that was grounded, or, in case of its loss, on the vessel where her officers and crew may be, this recess and reconvening will not be necessary.

All the (surviving) officers and crew of the U. S. Coast Guard cutter ——, having been mustered on the quarter deck of the U. S. Coast Guard cutter ——, the president explained the purpose of the board and the rights of all persons concerned and duly administered to them the oath of witnesses.

VAR. —— and duly administered to them the oath of witnesses, except to —— and ——, who were absent from the vessel. (Here give reason for absence.)

The official report of Capt. ——, U. S. Coast Guard, containing a narrative of the disaster to the U. S. Coast Guard cutter ——,

on May —, 1916, was then read aloud by the recorder; original appended, marked “—.”

The following questions were then put to the commanding officer by the president:

Q. Is the narrative just read to the board a true statement of the grounding (loss) of the ———, on May —, 1916?

A. * * *

Q. Have you any complaint to make against any of the (surviving) officers and crew of the said vessel because of their actions on that occasion?

A. * * *

The following questions were then put by the president to the (surviving) officers and crew of the vessel, and they were instructed by the president that if they had anything to say in answer to the questions propounded they should step to the front.

Q. Have you anything to object to in the narrative just read to the board, or anything to lay to the charge of any officer or person with regard to the grounding (loss) of the U. S. Coast Guard cutter ———, on May —, 1916?

A. The officers and men answered “No” and nobody stepped to the front (*or*, as the case may be).

NOTE.—The procedure in case of the grounding or loss of a vessel may be followed in case of collision, accident, or other casualty if the importance of the case so warrants.

All the officers and such of the crew as filled positions of special responsibility on the occasion referred to were informed by the president that they had the right to be present during the sessions of the board, to offer evidence, and to cross-examine witnesses if they so desired.

The board at 3.40 p. m. took a recess to meet at 4.30 p. m., at which time it reconvened on the U. S. Coast Guard cutter *Tahoma*, at Boston, Mass. (*or*, as the case may be).

Present: All the members, the recorder (if not a member), the stenographer (clerk), and all the parties to the inquiry.

When recess not necessary.—If the board has not reconvened at a place other than the original place of convening, there is no occasion for this recess and reconvening.

The board then, at 4.40 p. m., adjourned until 10 a. m. to-morrow, the ——— instant.

L. O. P ———,
Second Lieutenant, U. S. Coast Guard, Recorder.

SECOND DAY.

U. S. Coast Guard CUTTER TAHOMA,
Boston, Mass., Tuesday, June —, 1916.

The board met at 10 a. m.

Present: All the members, the recorder (if not a member), the stenographer (clerk), Capt. ———, U. S. Coast Guard, First Lieut. ———, U. S. Coast Guard, and Second Lieut. ———, U. S. Coast Guard.

The record of proceedings of yesterday was read and approved.

The (surviving) officers and crew of the U. S. Coast Guard cutter ———, who were absent yesterday, were called before the board and duly sworn by the recorder; the questions recorded in the proceedings of yesterday were propounded and the same instructions given, and no one had anything to urge (*or*, as the case be).

The officers and crew then before the board were informed as to their right to be present during the sessions of the board, to offer evidence, and to cross-examine witnesses, if they so desired.

Capt. ———, U. S. Coast Guard, was called as a witness, and, after being duly sworn, testified as follows:

Examined by the president:

1. Q. * * *

A. * * *

Cross-examined by First Lieut. ———:

17. Q. * * *

A. * * *

Examined by Second Lieut. ———:

23. Q. * * *

A. * * *

Examined by the board:

31. Q. * * *

A. * * *

The witness verified his testimony, and then resumed his seat as an interested party.

Examination of witnesses.—After the examination by the president any member of the board who desires may question the witness.

Verification of testimony.—The procedure under general courts, so far as it relates to the various methods of entering on the record the fact that the witness has pronounced his testimony as recorded correct, is applicable to boards of inquiry.

At this point it appeared to the board that Third Lieut. ———, U. S. Coast Guard, was an interested party. He was accordingly called before the board, so advised, was informed of his right to be present, to offer evidence, and to cross-examine witnesses if he so desired.

The board then, at 4.30 p. m., adjourned until 10 a. m. to-morrow, the ——— instant.

L. O. P. ———,

Second Lieutenant, U. S. Coast Guard, Recorder.

THIRD DAY.

U. S. COAST GUARD CUTTER TAHOMA,
Boston, Mass., Wednesday, June —, 1916.

The board met at 10 a. m.

Present: All the members, the recorder (if not a member), the stenographer (clerk), and the parties to the inquiry. The record of proceedings of yesterday was read and approved.

(If witness has not completed testimony.)

Capt. ———, the witness under examination when the board adjourned, appeared and, being duly warned that the oath previously taken by him was still binding, continued his testimony.

Examined by the board:

42. Q. * * *

A. * * *

The board and the parties to the inquiry had no further questions to ask this witness.

The witness verified his testimony and resumed his seat as an interested party.

Second Lieut. of Engineers ———, U. S. Coast Guard, was called as a witness by First Lieut. ———, U. S. Coast Guard, and, being duly sworn, testified as follows:

Examined by First Lieut. ———:

1. Q. * * *

A. * * *

Examined by the president:

11. Q. * * *

A. * * *

Examined by Capt. ———:

21. Q. * * *

A. * * *

The board and the other officers, parties to the inquiry, had no questions to ask this witness.

The witness verified his testimony, was duly warned, and withdrew.

There were no more witnesses to call.

Capt. ——— and Second Lieut. ———, U. S. Coast Guard, each submitted a written statement, which statements were read and hereto appended, marked “—” and “—.” First Lieut. ———, U. S. Coast Guard, and Third Lieut. ———, U. S. Coast Guard, did not wish to make statements.

Oral statements.—If a stenographer is employed these statements may be made orally.

All of the evidence being before the board, and there being nothing further to offer, the board was cleared, and after maturely deliberating on the evidence adduced finds as follows: (Here insert the findings of the board.)

B. C. D——,

Senior Captain, U. S. Coast Guard, President.

E. F. G——,

Captain of Engineers, U. S. Coast Guard, Member.

H. I. K——,

Captain, U. S. Coast Guard, Member.

L. O. P——,

Second Lieutenant, U. S. Coast Guard, Recorder.

Findings.—When a board is required to report facts, it is not to be understood that the bare record of testimony is meant, but also the result and conclusion of the board from hearing the evidence.

Opinion and recommendation.—The board shall, if so directed, give an opinion and recommendation on the merits of the case, and the propriety or expediency, or otherwise, of further action.

Recording finding and opinion.—The finding and opinion of the board need not be in the handwriting of the recorder.

The board is of the opinion and recommends that further proceedings be had in the case of Capt. ——, U. S. Coast Guard, as follows: (Here insert definitely the grounds upon which further proceedings should be had and also what proceedings are recommended, whether general court, letter of reprimand, etc.)

Finding, opinion, and recommendation, how signed.—The finding, opinion, and recommendation are signed in the same manner as in an ordinary board of inquiry.

Minority opinion and recommendation.—Here insert minority opinion and recommendation, if there be one.

The board then, at 4 p. m., adjourned until to-morrow, the —— instant.

L. O. P——,

Second Lieutenant, U. S. Coast Guard, Recorder.

FOURTH DAY.

U. S. COAST GUARD CUTTER TAHOMA,
Boston, Mass., Thursday, June —, 1916.

The board met at 10 a. m.

Present: All the members, the recorder (if not a member), the stenographer (clerk).

The record of proceedings of Wednesday was read and approved, the board being closed during the reading of so much thereof as pertains to the proceedings in closed board.

B. C. D——,

Senior Captain, U. S. Coast Guard, President.

L. O. P——,

Second Lieutenant, U. S. Coast Guard, Recorder.

The board, having finished the inquiry then, at — —. m., adjourned to await instructions from the convening authority.

B. C. D——,
Senior Captain, U. S. Coast Guard, President.
 L. O. P——,
Second Lieutenant, U. S. Coast Guard, Recorder.

LETTER TO PARTY TO INQUIRY.

_____, _____,
 _____ 19—.

Capt. A—— B. C——, U. S. Coast Guard,

Commanding Coast Guard Cutter ——, Boston, Mass.

Subject: Right to be present at sessions, board of inquiry.

SIR: 1. A board of inquiry, of which Senior Capt. B—— C. D——, U. S. Coast Guard, is president, has been ordered to convene on board the U. S. Coast Guard cutter *Tahoma* at Boston, Mass., at 10 o'clock a. m., on Monday, June —, 1916, for the purpose of inquiring into the circumstances connected with the grounding (loss) of the U. S. Coast Guard cutter ——, near ——, on the afternoon of May —, 1916.

2. You have the right to be present during the inquiry, to cross-examine witnesses, and offer evidence before the board should you desire to do so.

Respectfully,

_____, _____,
 _____.

LETTER TO COMMANDING OFFICER OF VESSEL INFORMING HIM OF CONVENING OF BOARD.

_____, _____,
 _____.

COMMANDING OFFICER COAST GUARD CUTTER TAHOMA,

Boston, Mass.

Subject: Convening of board of inquiry.

SIR: 1. A board of inquiry, of which Senior Capt. B—— C. D——, U. S. Coast Guard, is president, has been ordered to convene on the *Tahoma* under your command, at 10 o'clock a. m., on Monday, June —, 1916, for the purpose of inquiring into the circumstances connected with the grounding (loss) of the U. S. Coast Guard cutter ——, near ——, May —, 1916.

2. You will assign such quarters and give such assistance as may be required by the board.

Respectfully,

_____, _____,
 _____.

INVESTIGATIONS.

RECORD OF PROCEEDINGS
OF A
BOARD OF INVESTIGATION
CONVENED ON
U. S. COAST GUARD CUTTER MIAMI
AT KEY WEST, FLA.,

BY ORDER OF
COMMANDING OFFICER COAST GUARD CUTTER MIAMI
or, Captain Commandant U. S. Coast Guard,
TO INQUIRE INTO

JUNE —, 1916.

U. S. COAST GUARD CUTTER MIAMI,
Key West, Fla., June —, 1916.

First Lieut. B—— C. D——, U. S. Coast Guard,
Coast Guard Cutter Miami, Key West, Fla.

Subject: Order convening board of investigation.

SIR: 1. A board of investigation consisting of yourself as president, and of Second Lieut. of Engineers E—— F. G——, U. S. Coast Guard, and Third Lieut. H—— I. K——, U. S. Coast Guard, as additional members, will convene on board the *Miami* at 10 o'clock a. m., on Monday, June —, 1916, or as soon thereafter as practicable, for the purpose of inquiring into and reporting upon the grounding of the *Miami* on the afternoon of June —, 1916, at —— (here state where).

2. You will make a careful and thorough examination of all matters pertaining to the grounding above referred to, and upon the conclusion of the investigation will report the testimony taken and all the facts established thereby, together with your finding and opinion, fixing the responsibility.

Respectfully,

A—— B. C——,
Captain, U. S. Coast Guard, Commanding.

(A)

When to be convened.—A board of investigation will be convened by a commanding officer in case of the loss of or serious damage to the vessel or her machinery by reason of collision, grounding, fire, or other accident, or through carelessness. When a board is convened for the foregoing purposes, the members shall be sworn and testimony shall be taken under oath in the usual manner.

Procedure.—The procedure of boards of investigation for the above-named purposes shall be the same as for boards of inquiry.

FIRST DAY.

U. S. COAST GUARD CUTTER MIAMI,
Key West, Fla., Monday, June —, 1916.

The board met at 10 a. m.

Present:

First Lieut. B. C. D——, U. S. Coast Guard, president.

Second Lieut. of Engineers E. F. G——, U. S. Coast Guard,
 member.

Third Lieut. H. I. K——, U. S. Coast Guard, member and
 recorder.

The convening order, hereto prefixed, marked “—,” was read and the board decided upon its procedure.

The board was opened and Capt. ——, U. S. Coast Guard, and Second Lieut. ——, U. S. Coast Guard, entered.

Detail of ship's writer as clerk.—If the convening order authorizes the employment of the ship's writer as clerk, he shall enter at this time and the record shall give his name and rating and show that he so entered.

Challenge.—Officers serving on boards of investigation are not subject to challenge.

The members and clerk were duly sworn.

Oaths.—The forms of oaths are the same as those under ordinary boards of inquiry.

Capt. —— and Second Lieut. —— were informed by the president that the investigation would be conducted in open (closed) sessions, that they had the right to be present at the sessions of the board, to be represented by counsel, to cross-examine witnesses, and to present such evidence as they may desire.

Capt. ——, U. S. Coast Guard, was called as a witness, and after being duly sworn, testified as follows:

Examined by the president:

1. Q. * * *

A. * * *

2. Q. * * *

A. * * *

Cross-examined by Second Lieut. ——:

15. Q. * * *

A. * * *

Examined by the board:

21. Q. * * *

A. * * *

The witness verified his testimony, and then resumed his seat as an interested party.

Examination of witnesses.—After the examination by the president any member of the board who desires may question the witness.

Verification of testimony.—The procedure under general courts, so far as it relates to the various methods of entering on the record the fact that the witness has pronounced his testimony as recorded correct, is applicable to boards of investigation of this character.

Examination of commanding officer.—During the examination of the commanding officer he shall be asked if he has any complaint to lay against any of the officers or crew on the occasion of the grounding (or, as the case may be).

Second Lieut. ———, U. S. Coast Guard, was called as a witness, and after being duly sworn, testified as follows:

Examined by the president:

1. Q. * * *

A. * * *

17. Q. * * *

A. * * *

Cross-examined by Capt. ———:

19. Q. * * *

A. * * *

Examined by the board:

27. Q. * * *

A. * * *

The witness verified his testimony, and then resumed his seat as an interested party.

Quartermaster I. X. L———, U. S. Coast Guard, was called as a witness, and after being duly sworn, testified as follows:

Examined by the president:

1. Q. * * *

A. * * *

15. Q. * * *

A. * * *

Cross-examined by Capt. ———:

21. Q. * * *

A. * * *

Cross-examined by Second Lieut. ———:

27. Q. * * *

A. * * *

Examined by the board:

33. Q. * * *

A. * * *

The witness verified his testimony, was duly warned, and withdrew.

The board then, at 4.30 p. m., adjourned until 10 a. m. to-morrow, the ——— instant.

—————,
Third Lieutenant, U. S. Coast Guard, Recorder.

SECOND DAY.

U. S. COAST GUARD CUTTER MIAMI,
Key West, Fla., Tuesday, June —, 1916.

The board met at 10 a. m.

Present: All the members and the interested parties.

The record of proceedings of yesterday was read and approved.

Third Lieut. of Engineers ———, U. S Coast Guard, was called as
a witness, and after being duly sworn, testified as follows:

Examined by the president.

1. Q. * * *

A. * * *

9. Q. * * *

A. * * *

Cross-examined by Capt. ———:

11. Q. * * *

A. * * *

Second Lieut. ——— did not care to cross-examine the witness.

Examined by the board:

17. Q. * * *

A. * * *

The witness verified his testimony, was duly warned, and withdrew.

There were no more witnesses to call.

The record of proceedings of this day was read and approved.

All of the evidence being before the board, and there being nothing further to offer, the board was cleared and, after maturely deliberating on the evidence adduced, finds as follows: (Here insert the findings of the board.)

B. C. D———,

First Lieutenant, U. S. Coast Guard, President.

E. F. G———,

Second Lieutenant of Engineers, U. S. Coast Guard, Member.

H. I. K———,

Third Lieutenant, U. S. Coast Guard, Member and Recorder.

The board is of the opinion that (here insert opinion).

B. C. D———,

First Lieutenant, U. S. Coast Guard, President.

E. F. G———,

Second Lieutenant of Engineers, U. S. Coast Guard, Member.

H. I. K———,

Third Lieutenant, U. S. Coast Guard, Member and Recorder.

The board, at — o'clock — m., adjourned to await instructions from the convening authority.

B. C. D——,

First Lieutenant, U. S. Coast Guard, President.

H. I. K——,

Third Lieutenant, U. S. Coast Guard, Recorder.

VAR. The same variations apply as in boards of inquiry.

RECORD OF PROCEEDINGS
OF A
BOARD OF INVESTIGATION

CONVENED ON
U. S. COAST GUARD CUTTER MIAMI

AT KEY WEST, FLA.

JUNE —, 1916.

CASE OF SEAMAN J—— A. B——.

U. S. COAST GUARD CUTTER MIAMI,
Key West, Fla., June —, 1916.
Second Lieut. A—— B. C——, U. S. Coast Guard,
Coast Guard Cutter Miami, Key West, Fla.

Subject: Board of investigation, Seaman J. A. B——.

SIR: 1. A board consisting of yourself and of Second Lieut. of Engineers D. E. F——, U. S. Coast Guard, and Third Lieut. G. H. J——, U. S. Coast Guard, as additional members, will convene on board this vessel this day (or June —, 1916) for the purpose of investigating the desirability of retaining in the Coast Guard Seaman J—— A. B——, U. S. Coast Guard, against whom allegations of undesirability (unfitness) (inaptitude) have been made.

2. You will make a careful investigation and report, with the testimony taken, your findings and recommendations in the case.

Respectfully,

N. O. P——, *Commanding.*
(A)

• **When warrant officers may serve on boards.**—Warrant officers may serve on boards of investigation convened by a commanding officer when there is not a sufficient number of commissioned officers available, but shall not serve on boards to consider matters involving a commissioned officer.

U. S. COAST GUARD CUTTER MIAMI,
Key West, Fla., June —, 1916.

The board met at 10 a. m.

Present:

Second Lieut. A. B. C. ——, U. S. Coast Guard;
Second Lieut. of Engineers D. E. F. ——, U. S. Coast
Guard;
Third Lieut. G. H. J. ——, U. S. Coast Guard.

The convening order was read, original prefixed, marked "—."

Seaman J. ——— A. B. ———, U. S. Coast Guard, was called before the board and informed by the president of the instructions to the board, and was further informed that in view of the fact that certain reports against him are to be investigated he has the right to be present, to cross-examine witnesses and make a statement in his own behalf.

The board found this man to be serving his ——— enlistment.

Second Lieut. K. L. M———, U. S. Coast Guard, was called as a witness and examined as follows: (Here record statements of witness.)

Testimony.—Testimony before boards of investigation of this character is not to be taken under oath, and therefore only the declarations of witnesses are to be recorded. The procedure indicated in boards of inquiry shall be followed.

The witness verified his statements, was excused, and withdrew.

There were no further witnesses to be introduced.

Seaman J——— A. B——— was asked by the president if he desired to make a statement, and made a statement as follows: (Here record statement) (*or*, replied that he did not wish to make a statement.)

The person under investigation was excused and withdrew.

The board, after maturely deliberating upon the declarations above recorded, finds that the said Seaman J——— A. B———, U. S. Coast Guard, is undesirable by reason of ———, and recommends that he be discharged from the U. S. Coast Guard.

A. B. C———,

Second Lieutenant, U. S. Coast Guard, President.

D. E. F———,

Second Lieutenant of Engineers, U. S. Coast Guard, Member.

G. H. J———,

Third Lieutenant, U. S. Coast Guard, Member and Recorder.

ACTION BY CONVENING AUTHORITY.

(CASE OF FIRST ENLISTMENT.)

JUNE —, 1916.

The proceedings, findings, and recommendation of a board of investigation in the case of Seaman J——— A. B———, U. S. Coast Guard, are approved, and he has this day been given an ordinary discharge for ———. The record in the case is submitted to the Captain Commandant U. S. Coast Guard.

N. O. P———, *Commanding.*

VAR. ——— are disapproved, it appearing from the testimony in the case that his undesirability was caused by vio-

lations (infractions) of discipline. (Reason for disapproval to be fully stated.)

(Case of other than first enlistment.)

The proceedings, findings, and recommendation of the board of investigation in the case of Seaman J. A. B—— are approved and respectfully referred to the Secretary of the Treasury.

N. O. P——, *Commanding*.

VAR. —— are disapproved, it appearing that (here state in full reason for disapproval), and are respectfully referred to the Secretary of the Treasury.

RECORD OF PROCEEDINGS
OF A
BOARD OF INVESTIGATION

CONVENED AT

U. S. COAST GUARD STATION NO. ———,

At ———, ———.

JUNE —, 1916.

CASE OF SURFMAN ———.

TREASURY DEPARTMENT,
UNITED STATES COAST GUARD,
Washington, June —, 1916.

First Lieut. A. B. C——, U. S. COAST GUARD,

Assistant Inspector, U. S. Coast Guard, San Francisco, Cal.

Subject: Board of Investigation, Surfman B—— C. D——.

SIR: 1. You are constituted a board of investigation to convene at U. S. Coast Guard station No. ——— on your next regular visit to said station, for the purpose of investigating the desirability of retaining in the Coast Guard Surfman B—— C. D——, U. S. Coast Guard, having particular reference to the inclosed papers relating to ———.

2. You will make a careful investigation and report, with the testimony taken, your findings and recommendation in the case.

Respectfully,

E. L. K——, *Captain Commandant.*
(A)

VAR. ——— for the purpose of investigating certain allegations against Surfman B. C. D——, U. S. Coast Guard, contained in the inclosed papers.

U. S. COAST GUARD STATION No. ———,
———, *June —, 1916.*
(Post-office address.)

The board met at 10 a. m.

Present: First Lieut. A. B. C——, U. S. Coast Guard, sole member.

(Procedure in cases of inaptitude, undesirability, or unfitness.)

Surfman B. C. D——, U. S. Coast Guard, was called before the board, and the convening order and accompanying papers were read to him, originals prefixed hereto, marked “—” and “—.”

Surfman B. C. D—— was informed that, in view of the fact that certain reports against him were to be investigated, he has the right to be present, to cross-examine witnesses, and make a statement in his own behalf.

The board found this man to be serving his —— enlistment.

Keeper R. A. D——, U. S. Coast Guard, was called as a witness and examined as follows: (Here record statements of witness.)

Testimony.—Testimony before boards of investigation of this character is not to be taken under oath, and therefore only the declarations of witnesses are to be recorded. The procedure indicated in boards of inquiry shall be followed.

The witness was excused.

There were no further witnesses to be introduced.

Surfman B. C. D—— was asked by the board if he desired to make a statement, and made a statement as follows: (Here insert statement) (*or*, replied that he did not wish to make a statement.)

The person under investigation was excused and withdrew.

The board, after maturely deliberating upon the declarations above recorded, finds that the said Surfman B. C. D—— is undesirable (inapt) (unfit) by reason of ——, and recommends that he be discharged from the United States Coast Guard.

VAR. 1. —— is desirable (apt) (fit) and recommends that he be retained in the United States Coast Guard.

VAR. 2. —— was guilty of being drunk and asleep on watch (or, as the case may be) on ——, 1916, and recommends that he be brought to trial before a general (minor) court.

Respectfully submitted to the Captain Commandant, U. C. Coast Guard.

A. B. C——,
First Lieutenant, U. S. Coast Guard.

RECORD OF PROCEEDINGS

OF A

BOARD OF INVESTIGATION

CONVENED ON

U. S. COAST GUARD CUTTER WINONA

AT MOBILE, ALA.,

JUNE —, 1916.

CASE OF SECOND LIEUT. B. C. D——, U. S. COAST GUARD.

TREASURY DEPARTMENT,
UNITED STATES COAST GUARD,
Washington, June —, 1916.

Capt. A. B. C——, U. S. Coast Guard,
Commanding Coast Guard Cutter Winona, Mobile Ala.

Subject: Board of investigation, Second Lieut. B. C. D——.

SIR: 1. You are hereby constituted a board of investigation, to convene on board the Coast Guard cutter *Winona* as soon as practicable, to inquire into the conduct of Second Lieut. B. C. D——, U. S. Coast Guard, with reference to —— by this officer on or about June —, 1916, as reported to Headquarters by the commanding officer of the *Winona* under date of June —, 1916.

2. You will make a careful and thorough examination into this matter, and will take testimony from the commissioned officers and others as to all facts within their knowledge relevant thereto.

3. Upon the conclusion of the investigation you will transmit to Headquarters a full and concise report, including the testimony taken and your findings and recommendations.

4. The following papers are transmitted herewith for consideration by the board, to be returned with the record of proceedings in the case:

(a) * * *

(b) * * *

Respectfully,

E. L. K——. *Captain Commandant.*
(A)

U. S. COAST GUARD CUTTER WINONA,
Mobile, Ala., Monday, June —, 1916.

The board met at 10 a. m.

Present: Capt. A. B. C——, U. S. Coast Guard, sole member.

Second Lieut. B. C. D——, U. S. Coast Guard, was called before the board, and the convening order and accompanying papers

were read to him, originals prefixed hereto, marked “—,” “—,” and “—,” and informed that the investigation would be conducted in open (closed) sessions.

Second Lieut. B. C. D——— was informed that, in view of the fact that certain reports against him were to be investigated, he has the right to be present, to cross-examine witnesses, introduce evidence, and make a statement in his own behalf.

In response to a question by the board Second Lieut. B. C. D——— stated that he desired (did not desire) to be represented by counsel.

Permission having been obtained, Third Lieut. E. F. G———, U. S. Coast Guard, was introduced and recognized as counsel.

Testimony.—Testimony before boards of investigation of this character is not to be taken under oath, and therefore only the declarations of witnesses are to be recorded. The procedure indicated in boards of inquiry shall be followed.

First Lieut. H. I. K———, U. S. Coast Guard, was the first witness called, and testified as follows:

Examined by the board:

1. Q. * * *

A. * * *

2. Q. * * *

A. * * *

Cross-examined by officer under investigation (counsel):

15. Q. * * *

A. * * *

Reexamined by the board:

21. Q. * * *

A. * * *

Recross-examined by officer under investigation (counsel):

31. Q. * * *

A. * * *

The witness verified his testimony and withdrew.

First Lieut. of Engineers L. M. N———, U. S. Coast Guard, a witness called by the officer under investigation, was duly sworn and testified as follows:

Examined by officer under investigation (counsel):

1. Q. * * *

A. * * *

10. Q. * * *

A. * * *

Examined by the board:

15. Q. * * *

A. * * *

Reexamined by officer under investigation (counsel):

21. Q. * * *

A. * * *

Reexamined by the board:

27. Q. * * *

A. * * *

The witness verified his testimony and withdrew.

There were no more witnesses to be called.

Second Lieut. B. C. D—— was asked by the board if he desired to make a statement, and made a statement as follows: (Here insert statement) (*or*, submitted a written statement, which is appended hereto, marked “—.”) (*or*, replied that he did not wish to make a statement).

The investigation was finished.

The board was cleared.

The board, after maturely deliberating upon the evidence, finds (here insert findings).

The board recommends that Second Lieut. B. C. D——, U. S. Coast Guard (here insert recommendation).

VAR. —— no further proceedings be had against Second Lieut. B. C. D——, U. S. Coast Guard, for the reason that (here insert reason).

Finding and recommendation.—The finding and recommendation of the board need not be in the handwriting of the investigating officer.

Respectfully forwarded to the Captain Commandant, U. S. Coast Guard.

A. B. C——,
Captain, U. S. Coast Guard.

Warrant officer.—The above procedure will also be used in case of the investigation of a warrant officer.

RECORD OF PROCEEDINGS

OF A

BOARD OF INVESTIGATION

CONVENED AT

U. S. COAST GUARD STATION NO. ———,

At ———, ———,

JUNE —, 1916.

—————
CASE OF LOSS OF LIFE, STEAMER ———.

—————
TREASURY DEPARTMENT,
UNITED STATES COAST GUARD,
Washington, June —, 1916.

Capt. A. B. C———. U. S. Coast Guard,
Assistant Inspector, U. S. Coast Guard,
San Francisco, Cal.

Subject: Board of Investigation, loss of life near No. ——— station,
June —, 1916.

SIR: 1. You are hereby constituted a board of investigation, in pursuance of section 9 of the act of June 18, 1878, to convene at U. S. Coast Guard station No. ———, as soon as practicable, for the purpose of investigating the facts and circumstances connected with the wreck of the steamer ———, on June —, 1916, resulting in the loss of several lives, with the view of ascertaining the cause of the disaster, and whether the keeper or the crew at said station have been guilty of any neglect or misconduct in the premises.

2. You will make a careful and thorough examination into all the matters connected with the assistance rendered by the keeper and crew of said station, and, upon the conclusion of the investigation, transmit to Headquarters a report, including the testimony taken, your findings as to the facts established, your opinion as to whether or not the accident occurred within the scope of the operations of Coast Guard stations, and your recommendations as to whether or not further action is deemed necessary; and, if so, what action and against whom.

Respectfully,

E. I. K———, *Captain Commandant.*
(A)

FIRST DAY.

U. S. COAST GUARD STATION No. ———,
 ———, June —, 1916.
 (Post-office address.)

The board met at 10 a. m.

Present: Capt. A. B. C——, U. S. Coast Guard, sole member.

Keeper D. E. F——, U. S. Coast Guard, was called before the board, and the convening order and accompanying papers were read to him, originals prefixed hereto, marked “—” and “—,” and informed that the investigation would be conducted in open sessions.

G. H. I——, stenographer, entered (if a stenographer is authorized).

The board read aloud the authorization for the employment of a stenographer, certified copy appended, marked “—.”

The stenographer was duly sworn.

Keeper D. E. F—— was informed that, in view of the nature of the investigation, he has the right to be present, to cross-examine witnesses, introduce evidence, and make a statement in his own behalf.

In response to a question by the board, Keeper —— stated that he desired (did not desire) to be represented by counsel.

Mr. L. O. T—— was introduced and recognized as counsel.

Oaths to witnesses.—The oath prescribed for general court procedure will be administered to witnesses

Testimony.—Testimony will be taken under oath, and the procedure prescribed for general courts will be observed as far as applicable.

Witnesses.—The investigating officer shall endeavor to ascertain in advance of taking testimony what persons will be witnesses. But one witness shall be present at a time.

Order of examination of witnesses.—The witnesses, so far as practicable, shall be examined in the following order:

(a) Survivors of the crew of the wrecked vessel, if any.

(b) Passengers.

(c) Other eyewitnesses whose testimony may be deemed of sufficient importance.

(d) Keepers and crews of the stations concerned.

M. A. D——, master of the wrecked steamer ——, was called as a witness and, after being duly sworn, testified as follows:

Examined by the board:

1. Q. * * *

A. * * *

10. Q. * * *

A. * * *

Cross-examined by Keeper —— (counsel):

15. Q. * * *

A. * * *

Reexamined by the board:

19. Q. * * *

A. * * *

Recross-examined by Keeper ——— (counsel):

23. Q. * * *

A. * * *

The witness verified his testimony, was duly warned, and withdrew.

N. A. R——, a passenger on the wrecked steamer ——, was called as a witness and, after being duly sworn, testified as follows:

Examined by the board:

1. Q. * * *

A. * * *

(Order of examination is the same as for first witness.)

The witness verified his testimony, etc.

O. A. F——, an eyewitness, was called as a witness and, after being duly sworn, testified as follows:

Examined by the board, etc.

The witness verified his testimony, etc.

Keeper D. E. F——, U. S. Coast Guard, was called as a witness and, after being duly sworn, testified as follows:

Examined by the board, etc.

The witness verified his testimony, and resumed his seat as an interested party.

At this point it appeared that No. 1 surfman G. H. I——, U. S. Coast Guard, was an interested party. He was accordingly called before the board, so advised, and was informed of his right to be present, to offer evidence, cross-examine witnesses, and make a statement in his own behalf.

The board then, at 4.30 p. m., adjourned until 10 a. m. to-morrow, the —— instant.

A. B. C——,
Captain, U. S. Coast Guard.

SECOND DAY.

U. S. COAST GUARD STATION No. ——,
Tuesday, June —, 1916.

The board met at 10 a. m.

Present: Capt. A. B. C——, U. S. Coast Guard, Keeper ——, U. S. Coast Guard, No. 1 Surfman ——, U. S. Coast Guard, (counsel, if any) (stenographer, if any).

All witnesses withdrew.

No. 1 Surfman —— was called as a witness and, after being duly sworn, testified as follows:

Examination the same as for other witnesses called by the board.

The witness verified his testimony and resumed his seat as an interested party.

P. A. R——— was called as a witness by Keeper —— and, after being duly sworn, testified as follows:

Examined by the board (identification questions only asked):

1. Q. * * *

A. * * *

2. Q. * * *

A. * * *

Examined by Keeper —— (counsel):

3. Q. * * *

A. * * *

Examined by board:

15. Q. * * *

A. * * *

Reexamined by Keeper —— (counsel):

21. Q. * * *

A. * * *

Reexamined by board:

27. Q. * * *

A. * * *

No. 1 Surfman —— did not desire to question the witness.

The witness verified his testimony, etc.

Members of crew as witnesses.—Each member of the station crew who has knowledge of the facts should be sworn as a witness, and after the examination by the board, the interested parties should be given an opportunity to examine him. Should the testimony show that any member of the crew is an interested party, he shall be notified of his right to be present, represented by counsel, cross-examine witnesses, offer evidence in his own behalf, and make a statement, and the record shall so show.

The board and the parties to the investigation had no further witnesses to call and nothing further to offer.

Keeper —— and No. 1 Surfman —— were asked by the board if they desired to make statements, and each made a statement as follows: (Here record statement of each separately) (*or*, each submitted a written statement which is appended hereto, marked “—” and “—,” respectively), (*or*, each replied that he did not wish to make a statement) (*or*, as the case may be).

The board announced that the investigation was closed.

The board was cleared.

The board, after maturely deliberating upon the evidence, finds (here record findings).

The board recommends (here record recommendation).

Finding.—The finding shall show the facts established relative to the casualty, whether or not the accident occurred within the scope of operations of Coast Guard stations, and whether or not blame attaches to any member of the crew of the station.

Recommendation.—The recommendation shall state specifically whether or not further action is deemed necessary, and, if so, what action and against whom.

Respectfully forwarded to the Captain Commandant, U. S. Coast Guard.

A. B. C———,
Captain, U. S. Coast Guard.

BOARD FOR REMOVAL OF DISABILITY
OF DESERTION.

RECORD OF PROCEEDINGS
OF A
BOARD FOR REMOVAL OF DISABILITY OF DESERTION

CONVENED ON

U. S. COAST GUARD CUTTER MIAMI

at ————,

JUNE —, 1916.

CASE OF SEAMAN R. S. T———, U. S. COAST GUARD.

TREASURY DEPARTMENT,
UNITED STATES COAST GUARD,
Washington, June —, 1916.

First Lieut. of Engineers A. B. C———, U. S. Coast Guard,
Coast Guard Cutter ———, Boston, Mass.

Subject: Board, removal disability desertion, Seaman R. S. T———.

SIR: 1. A board, consisting of yourself as president, Second Lieut. of Engineers D. E. F———, U. S. Coast Guard, and Third Lieut. G. H. I———, U. S. Coast Guard, as additional members, will convene on board the ———, as soon as practicable, for consideration of the inclosed application of Seaman R. S. T———, U. S. Coast Guard, for the removal of the disability of desertion, he having been found guilty by a general court of desertion from the Coast Guard cutter *Miami*, on January 21, 1916, and sentenced to imprisonment for six months, dishonorable discharge, and forfeiture of pay. Action on the sentence was deferred by department order of February 15, 1916, placing him on probation.

2. The board will make a careful and thorough examination into all the matters and report the facts established, together with its recommendation.

Respectfully,

E. L. K———. *Captain Commandant.*

U. S. COAST GUARD CUTTER MIAMI,
Boston, Mass., Monday, June —, 1916.

The board met at 10 a. m.

Present:

First Lieut. of Engineers A. B. C———, U. S. Coast Guard;
Second Lieut. of Engineers D. E. F———, U. S. Coast Guard;
Third Lieut. G. H. I———, U. S. Coast Guard.

Seaman R. S. T——, U. S. Coast Guard, was called before the board and the convening order and accompanying papers were read to him, originals prefixed hereto, marked “—” and “—,” and informed that the investigation would be conducted in open session.

Seaman R. S. T—— was informed that, in view of the fact that his application for the removal of the disability of desertion was to be considered by the board, he has the right to be present, cross-examine witnesses, introduce evidence, and make a statement in his own behalf.

First Lieut. K. L. M——, U. S. Coast Guard, was the first witness called, and was examined as follows: (Here record statements of witness.)

Testimony.—Testimony before boards of investigation of this character is not to be taken under oath, and therefore only the declarations of witnesses are to be recorded. The procedure indicated in boards of inquiry is to be followed.

The witness verified his statements, was excused, and withdrew.

Boatswain N. O. P——, U. S. Coast Guard, was the next witness called, and was examined as follows: (Here record statements of witness.)

The witness verified his statements, etc.

Gunner Q. R. S——, U. S. Coast Guard, a witness for the interested party, entered and was examined as follows: (Here record statements of witness.)

The witness verified his statements, etc.

There were no further witnesses to be introduced.

Seaman R. S. T—— was asked by the president if he desired to make a statement, and made a statement as follows: (Here record statement) (*or*, replied that he did not wish to make a statement.)

The person under investigation was excused and withdrew.

The board, after maturely deliberating upon the declarations above recorded, finds: (Here record findings with reasons therefor at length.)

A. B. C——,

First Lieutenant of Engineers, U. S. Coast Guard, President.

D. E. F——,

Second Lieutenant of Engineers, U. S. Coast Guard, Member.

G. H. I——,

Third Lieutenant, U. S. Coast Guard, Member and Recorder.

Documentary evidence.—Affidavits relating to the good conduct of the person whose conduct is the subject of investigation may be received by the board when the writers of them are unable to appear and make declarations.

Finding and recommendation.—The finding and recommendation are signed in the same manner as in an ordinary board of inquiry. The finding and recommendation need not be in the handwriting of the recorder.

The board recommends: (Here record recommendation.)

(Signed by members who concur.)

Minority recommendation.—Here insert minority recommendation, if there be one. A minority recommendation, if there be one, is signed by the member not concurring in the recommendation.

Respectfully forwarded to the Captain Commandant, U. S. Coast Guard.

A. B. C——,

First Lieutenant of Engineers, U. S. Coast Guard, President.

G. H. I——,

Third Lieutenant, U. S. Coast Guard, Recorder.

BOARD OF INQUEST.

RECORD OF PROCEEDINGS

OF A

BOARD OF INQUEST

CONVENED

ON BOARD THE U. S. COAST GUARD CUTTER MIAMI

AT KEY WEST, FLA.,

BY ORDER OF

CAPT. M—— N——, U. S. COAST GUARD, COMMANDING.

CASE OF

SEAMAN S—— T——, U. S. COAST GUARD.

JUNE ——, 1916.

U. S. COAST GUARD CUTTER MIAMI,

Key West, Fla., June —, 1916.

First Lieut. A—— C——, U. S. Coast Guard,

U. S. Coast Guard Cutter Miami, Key West, Fla.

SIR: 1. A board, consisting of yourself as president, and of Second Lieut. D—— E——, U. S. Coast Guard, and Third Lieut. F—— G——, U. S. Coast Guard, as additional members, will immediately assemble for the purpose of investigating and reporting upon the circumstances attending the death of Seaman S—— T——, U. S. Coast Guard, attached to this vessel.

2. The proceedings of the board will be conducted in accordance with the provisions of the Regulations, U. S. Coast Guard.

Respectfully,

M—— N——,

Captain, U. S. Coast Guard, Commanding.

(A)

U. S. COAST GUARD CUTTER MIAMI,

Key West, Fla., June —, 1916.

The board of inquest assembled by the order hereto prefixed marked “—,” on the body of Seaman S—— T——, U. S. Coast Guard, found dead, met at — o'clock, — m.

Present:

First Lieut. A—— C——, U. S. Coast Guard, president.

Second Lieut. D—— E——, U. S. Coast Guard, member.

Third Lieut. F—— G——, U. S. Coast Guard, member and recorder.

The order convening the board was read by the recorder, and the board, having viewed the body, proceeded to the spot where the

body was found (or, as the case may be), and then assembled at ——— and took the following evidence:
 ——— was called before the board.

Examined by the president:

1. Q. State all you know about the death of Seaman S——— T———, U. S. Coast Guard.

A. * * *

2. Q. * * *

A. * * *

Examined by the board:

7. Q. * * *

A. * * *

The witness withdrew.

Witnesses summoned.—Every witness who may be able to throw any additional light on the manner or cause of death should be called before the board to testify.

Passed Asst. Surg. Y——— Z———, U. S. Public Health Service, stated that in his opinion the deceased met his death (here give cause).

The proceedings closed here.

The board, from a view of the body and from the evidence before it, is of the opinion that S——— T———, seaman, U. S. Coast Guard, died a natural death (*or*, was killed by ———; *or*, was drowned; *or*, was murdered by ———, *or* by some person or persons unknown; *or*, committed suicide by ———; *or* otherwise, as the case may be), and that his death was (not) occasioned in the line of duty.

A——— C———,

First Lieutenant, U. S. Coast Guard, President.

D——— E———,

Second Lieutenant, U. S. Coast Guard, Member.

F——— G———,

Third Lieutenant, U. S. Coast Guard, Member and Recorder.

Submitted to convening authority.—The record of proceedings shall be submitted to the convening authority, who, after indorsing his approval or disapproval thereon, with such remarks as he may deem necessary, shall forward it to Headquarters.

Revision.—The record may be returned to the board for such revision as is thought necessary.

Death at a station.—If a death occur in the complement of a Coast Guard station, the keeper of the station, or in case of his death the ranking surfman of the station, shall ascertain all the particulars required by the regulations of the Coast Guard and forward his report to Headquarters. (See art. 2395, Coast Guard Regulations.)

BOARD OF EXAMINATION.

RECORD OF PROCEEDINGS
OF A
BOARD OF EXAMINATION

CONVENED AT

CASE OF
FIRST LIEUT. B——— A. R———, U. S. COAST GUARD,
JUNE 10, 19—.

VAR. ———. Cases of ——— and ———.

TREASURY DEPARTMENT,
UNITED STATES COAST GUARD,
Washington, June —, 1916.

Senior Capt. A. B. C———, U. S. Coast Guard,
Capt. D. E. F———, U. S. Coast Guard,
Capt. G. H. I———, U. S. Coast Guard.
Treasury Department.

Subject: Board of examination for promotion.

GENTLEMEN: 1. You are hereby constituted a board of examination, to meet at Headquarters June —, 1916, or as soon thereafter as practicable, for the examination of First Lieut. B——— A. R———, U. S. Coast Guard, for promotion.

2. The professional examination of this officer has been conducted by a sub-board convened for that purpose.

3. The board will carefully examine the papers of this officer, together with certain papers, herewith transmitted, relating to his record.

4. The board will proceed with the examination of the papers from day to day until the completion of the examination, when it will submit a detailed report, showing the average of the candidate, marked upon a scale of 100 (see department pamphlet "Standard of Examinations, 1916"), and will recommend whether or not the officer is eligible for promotion in accordance with the provisions of articles 2466 and 2467 of the Regulations.

5. The attention of the board is invited to the course of procedure for boards of examination, set forth in article 2451 et seq., of the Regulations. The board is directed to keep a careful record of all papers sent it and to return them without exception to Headquarters upon the completion of this duty.

Respectfully,

E. L. K———, *Captain Commandant.*
(A)

FIRST DAY.

———, June —, 19—.

The board met at 10 a. m., June —, 19—, pursuant to an order, original prefixed, marked "A."

Present:

Senior Capt. A. B. C———, U. S. Coast Guard.
Capt. D. E. F———, U. S. Coast Guard.
Capt. G. H. I———, U. S. Coast Guard.

The convening order was read.

The recorder and the other members of the board were duly sworn.

Form of oath for recorder.—You, C. D., do solemnly swear (or affirm) that you will honestly and impartially examine and report upon the case of ———, now before this board and about to be examined, and that you will keep a true record of the proceedings in the case. So help you God.

Form of oath for member.—You, A. B., do solemnly swear (or affirm) that you will honestly and impartially examine and report upon the case of ———, now before this board and about to be examined. So help you God.

Oath when several candidates.—When there are several candidates before the board one oath to each member and one to the recorder will be sufficient; but in such cases the name of each candidate shall be mentioned in each oath.

One set of examination papers of First Lieut. B——— A. R———. U. S. Coast Guard, was received.

More than one officer examined.—If more than one officer is to be examined the record shall show that the examination papers of each was received, mentioning each by name and rank.

The board began the marking of the professional papers.

At 4.30 p. m. the board adjourned until 9.30 a. m. to-morrow, the ——— instant.

G. H. I———,
Captain, U. S. Coast Guard, Recorder.

SECOND DAY.

———, June —, 19—.

The board met at 9.30 a. m., all the members present.

The record of yesterday was read and approved.

The board resumed the marking of the professional papers.

At 4.30 p. m. the board adjourned until 9.30 a. m. to-morrow, the ——— instant.

G. H. I———,
Captain, U. S. Coast Guard, Recorder.

THIRD DAY.

———, June —, 19—.

The board met at 9.30 a. m., all the members present.

The record of yesterday was read and approved.

The board continued the marking of the professional papers.

The board completed the marking of all professional papers and the examination and marking of all records of First Lieut. B——— A. R——— (or of First Lieuts. ——— and ———), and, at 4.25 p. m., adjourned until 9.30 a. m. to-morrow, the — instant.

G. H. I———,
Captain, U. S. Coast Guard, Recorder.

FOURTH DAY.

—, June —, 19—.

The board met at 9.30 a. m., all the members present.

The record of proceedings of yesterday was read and approved.

Powers of board.—The board shall have the power to take testimony and to examine all matter on the files and records of Headquarters relating to any officer whose case may be under consideration.

Examinations to be thorough.—No officer shall be rejected until after such thorough public examination of himself and of the records of Headquarters in his case as is provided for in the Regulations, United States Coast Guard, unless he shall fail to appear before the board after having been duly ordered.

Entry in the record of statement of candidate and testimony of witnesses.—The statement of an officer whose case is to be acted upon by a board of examination, if such statement be made, all questions propounded to him, and his answers thereto, with the testimony of all witnesses, shall be entered in the record of proceedings.

Candidate to appear personally if necessary.—If the board deems it necessary, in order to establish the fitness of a candidate, that he appear personally before it, Headquarters shall be so informed with the reasons therefor.

Candidate not to be discharged before completion of case.—In case the candidate is ordered to appear before the board care shall be taken not to discharge him until his case is fully completed. This applies particularly to cases where there are unfavorable reports, or other evidence.

The board having deliberated on the evidence before it, decided that the mental, moral, and professional fitness of the candidate (candidates, naming each with his rank, if more than one) to perform all the duties of the grade for which he was examined has been established to its satisfaction.

Evidence to be considered.—The evidence above referred to is that which appears in and is attached to the record.

We hereby certify that, in our judgment, First Lieut. B—— A. R——, U. S. Coast Guard, has the mental, moral, and professional qualifications to perform efficiently all the duties of the grade for which he was examined, and we recommend him for promotion.

A. B. C——,

Senior Captain, U. S. Coast Guard, President.

D. E. F——,

Captain, U. S. Coast Guard, Member.

G. H. I——;

Captain, U. S. Coast Guard, Member and Recorder.

Signing of record.—The finding and recommendation, based upon the opinion of the majority, and inserted in the body of the record, shall be signed by the members concurring. Those who do not concur shall enter their opinion on the record, stating wherein they differ with the majority, and subscribe their names thereto.

Record must show consideration of unfavorable evidence.—When there is evidence of an unfavorable nature, the record must show affirmatively that the board fully considered this unfavorable evidence, and give the reasons for its recommendation.

Candidate found deficient.—Should the board, or any member or members thereof, deem a candidate for promotion not qualified in all respects for advancement, it, he, or they, as the case may be, shall state in what particular or particulars—mentally, morally, or professionally—he is deficient, giving the reasons therefor, and recommend that he be not promoted.

VAR. 1. ——— has been established to its satisfaction. In arriving at its conclusion as to the moral fitness of the candidate, the board fully considered the finding and sentence of the general court in his case, dated ———, ——. In view, however, of the subsequent good record of the candidate (or state other reasons), the board came to a favorable conclusion as to his moral (professional) fitness notwithstanding such evidence.

We hereby certify, etc.

VAR. 2. The board, having deliberated on the evidence before it, decided that the mental and the moral fitness of the candidate to perform all the duties of the grade for which he was examined has been established to its satisfaction; but that, owing to deficiency in the subject of (or, as the case may be), as shown by his written examination papers hereto appended, his professional fitness has not been so established.

We hereby certify that First Lieut. B. A. R——, U. S. Coast Guard, has the mental and moral but not the professional qualifications to perform efficiently all the duties of the grade for which he was examined, and do not recommend him for promotion.

VAR. 3. The board, having deliberated on the evidence before it, and having determined that from such evidence it appears *prima facie* that First Lieut. B. A. R——, U. S. Coast Guard, is not morally qualified for promotion by reason of his own misconduct (or drunkenness, or overindulgence in intoxicants, or, as the case may be), he was called before the board and given an opportunity to be heard relative to the following matters:

(a) On February —, 19—, he was under the influence of liquor on board of the U. S. Coast Guard cutter ——— while executive officer of that vessel.

(b) That in the report of fitness from September 30, 19—, to March 31, 19—, his commanding officer reported that he would object to having him under his immediate command unless given satisfactory assurance that intoxicating liquor would be left absolutely alone.

(c) The claim of B—— and M——, Boston, Mass., dated January —, 19—.

(d) An extract from the medical record of the candidate, and particularly the report of Asst. Surg. R. D. V——, U. S. Public Health Service, dated December —, 19—.

First Lieut. B. A. R—— asked permission to introduce S—— R—— as a witness, which request was granted. The witness entered and was duly sworn.

(Testimony recorded as for defense in a general court.)

First Lieut. B. A. R—— had nothing further to offer, but made a sworn statement, as follows: (Here insert statement or append it.)

After the consideration of his case, during which the board was cleared, the board was opened and the candidate discharged from further attendance.

The board was then cleared for deliberation, and decided that the mental and professional fitness of the candidate to perform efficiently all the duties of the grade for which he was examined has been established to its satisfaction; but that, by reason of drunkenness (or by reason of ———), which is the result of his own misconduct, his moral fitness has not been so established.

We hereby certify that First Lieut. B. A. R——, U. S. Coast Guard, has the mental and professional but not the moral qualifications to perform efficiently all the duties of the grade for which he was examined, and we do not recommend him for promotion.

VAR. 4. (Majority and minority opinion.) We hereby certify that First Lieut. B. A. R——, U. S. Coast Guard, has the mental, moral, and professional qualifications to perform efficiently all the duties of the grade for which he was examined, and we recommend him for promotion.

A. B. C——,

Senior Captain, U. S. Coast Guard, President.

D. E. F——,

Captain, U. S. Coast Guard, Member.

From an inspection of the written examination of the candidate and from answers to interrogatories sent to officers under whom the candidate has served, I am constrained to differ with the majority of the board as to the professional fitness of the candidate to perform all the duties of the grade for which he was examined.

I hereby certify that First Lieut. B. A. R——, U. S. Coast Guard, has the mental and moral but not the professional qualifications to perform efficiently all the duties of the grade for which he was examined, and do not recommend him for promotion.

G. H. I——,

Captain, U. S. Coast Guard, Member.

Witnesses to be examined upon written interrogatories.—Written interrogatories may be addressed by Headquarters to such witnesses as the candidate may reasonably request to have examined regarding any particular matter or incident touching his fitness for promotion. Whenever such request is by the board deemed unreasonable, it shall state its reasons in full for its objections.

Attendance of candidate.—If the board deem it necessary, in order to establish the fitness of a candidate, that he appear personally before it, Headquarters shall be so informed, with the reason therefor.

Officer junior in rank to candidate shall not be questioned as to matter of opinion.—No inquiry as to matter of opinion shall be put to any officer who is junior in rank to the candidate for promotion.

Consideration of facts which occurred prior to last examination.—In the examination of an officer for promotion, no fact which occurred prior to the last examination of the candidate, whereby he was promoted, which has been inquired into, shall be considered, but such previous examination, if approved, shall be conclusive, unless such facts continuing show the unfitness of the officer to perform all the duties of the grade for which he is examined.

Record of examination for appointment.—The record of examination for appointment shall, so far as applicable, be the same as for examination for promotion.

All papers submitted to the board, other than those appended hereto, have been returned to Headquarters.

There is appended hereto a tabulated form, marked "—," of the averages attained by the officer (each of the officers) under examination.

The record of this, the fourth day, was read and approved and at — —. m. the board adjourned to await the action of the convening authority.

A. B. C——,

Senior Captain, U. S. Coast Guard, President.

G. H. I——,

Captain, U. S. Coast Guard, Member and Recorder.

Procedure of board of examination for promotion extended to examination for appointments.—The procedure governing a board of examination for the promotion of an officer shall be followed in examinations for the appointment of constructors, district superintendents, and warrant officers, but for such appointment the physical examination shall, unless otherwise directed, precede the mental, moral, and professional examination.

Record to state cause of candidate's failure.—Whenever the board fails to recommend a candidate for promotion or appointment, the record must similarly state whether such failure is owing to his mental, moral, or professional fitness.

Tabulated form of the averages attained by First Lieut. B. A. R——, U. S. Coast Guard, in his examination for promotion.

Subjects.	Total value.	Value as marked.	Weight.	Product of weight and marked value.
Seamanship and navigation.....	1,000	.....	20	.....
Naval construction and care of vessels...	1,000	.....	20	.....
Navigation and customs laws.....	1,000	.....	20	.....
Coast Guard regulations and general orders.....	1,000	.....	20	.....
International law.....	1,000	.....	10	.....
Steam engineering.....	1,000	.....	10	.....
Total average.....	.....	.....	.....	.....
Average percentage.....	.....	.....	.....	.....
Fitness of officers.....	.....	.....	.....	.....

A. B. C——,

Senior Captain, U. S. Coast Guard, President.

D. E. F——,

Captain, U. S. Coast Guard, Member.

G. H. I——,

Captain, U. S. Coast Guard, Member and Recorder.

RECORD OF PROCEEDINGS
OF A
SUBBOARD OF EXAMINATION

CONVENED AT
(convened on board of)

CASE OF
THIRD LIEUT. C. A. M——, U. S. COAST GUARD.

JUNE —, 19—.

VAR. — Cases of — and —.

TREASURY DEPARTMENT,
UNITED STATES COAST GUARD,
Washington, June —, 19—.

Capt. A. B. C——, U. S. Coast Guard,

Commanding Coast Guard Cutter —, San Francisco, Cal.

Subject: Subboard, examination Third Lieut. C. A. M—— for promotion.

SIR 1. You are constituted a subboard of examination, to meet on the —, Tuesday, June —, 19—, or as soon thereafter as practicable, to conduct the professional examination for promotion of Third Lieut. C. A. M——. U. S. Coast Guard.

2. A copy of the rules for the government of the board is inclosed.

3. There will be mailed to you one set of examination papers for promotion to the grade of second lieutenant, the receipt of which you will acknowledge. You will have the custody of the examination papers, and will not allow any other person, except as provided for in the rules for the government of the board, to see the questions nor permit copies of the same to be made, and will caution the candidate not to divulge to anyone the nature of the questions. As soon as the examination is completed, you will forward the examination papers to Headquarters. The examination will continue from day to day, Sundays excepted, until finished.

Respectfully,

E. L. K——, *Captain Commandant.*

(A)

U. S. COAST GUARD CUTTER —,
San Francisco, Cal., June —, 19—.

The subboard met at 9 a. m., June —, 19—, pursuant to an order, original prefixed marked "A."

Present: Captain A. B. C——, U. S. Coast Guard, sole member.

Third Lieut. C. A. M——, U. S. Coast Guard, reported in obedience to an order from Headquarters.

The candidate was notified of the order of sequence of the subjects of the examination, and the examination was begun and was continued from day to day until its completion, in accordance with the "Rules for the government of the board."

All the papers in the case are herewith transmitted.

Respectfully forwarded to the Captain Commandant, U. S. Coast Guard.

More than one candidate examined.—If more than one candidate is to be examined, the record shall show that each of them reported, and that all the papers in each case were transmitted to Headquarters.

RETIRING BOARD.

RETIRING BOARD.

INCIDENTS IN THE PROCEDURE OF A RETIRING BOARD.

1. Board meets, names of members, recorder, copy of order prefixed.
2. Person under examination appears.
3. Recorder reads authorization (if any) for employment of stenographer. Stenographer introduced.
4. Convening order read; challenge of members.
5. Members and recorder sworn by president; president and stenographer sworn by recorder.
6. Recorder reads communication from headquarters transmitting papers; papers read.
7. Medical members directed in writing to make examination of person under investigation.
8. Adjournment or recess pending medical examination.
9. Board reconvenes.
10. Senior medical member submits report of medical examination.
11. President asks person under examination his wishes relative to retirement. Reply to question.
12. Testimony of person desiring retirement.
13. Report of medical members read, sworn to, and appended.
14. Testimony of senior medical member.
15. Testimony of junior medical member.

PERSON NOT DESIRING RETIREMENT.

12. Report of medical members read, sworn to, and appended.
13. Testimony of senior medical member.
14. Testimony of junior medical member.
15. Testimony of person not desiring retirement.
16. Further evidence, if any.
17. Statement, if any, of person under examination.
18. Witness (if any) for person under examination.
19. Board cleared.
20. Finding and decision of board.
21. Signing of finding and decision.
22. Minority finding and decision, if any.
23. Adjournment and authentication of record.

RECORD OF PROCEEDINGS

OF A

RETIRING BOARD

CONVENED AT

THE BARGE OFFICE

NEW YORK, N. Y.

CASE OF

CAPTAIN J. R. A——, U. S. Coast Guard.

JUNE —, 19—.

TREASURY DEPARTMENT.

UNITED STATES COAST GUARD,

Washington, June —, 19—.

Senior Capt. A. B. C——, U. S. Coast Guard,

Barge Office, New York, N. Y.

Subject: Retiring board, convening order.

SIR: 1. A Coast Guard retiring board, consisting of yourself as president and of Capt. of Engineers D. E. F——, U. S. Coast Guard; Capt. G. H. I——, U. S. Coast Guard; Surg. K. L. M——, U. S. Public Health Service; and Asst. Surg. N. O. P——, U. S. Public Health Service, as additional members, is hereby ordered to convene at the barge office, New York, N. Y., at 10 o'clock a. m., Monday, June —, 19—, or as soon thereafter as practicable, for the examination of Capt. J. R. A——, U. S. Coast Guard, and such other persons as may be ordered to appear before it.

2. Capt. G. H. I——, U. S. Coast Guard, is designated as recorder of the board.

By direction of the President.

Respectfully,

A—— M——, *Assistant Secretary.*

A true copy:

G. H. I——,

Captain, U. S. Coast Guard, Recorder.

(A)

Copy of convening order.—A copy of the convening order is to be prefixed to the proceedings of each case considered by the board.

TREASURY DEPARTMENT,

UNITED STATES COAST GUARD,

Washington, June —, 19—.

Capt. J. R. A——, U. S. Coast Guard,

Portland, Me.

Subject: Order to report to retiring board.

SIR: 1. Proceed to New York, N. Y., etc., ———.

Respectfully,

A—— M——, *Assistant Secretary.*

A true copy:

G. H. I——,

Captain, U. S. Coast Guard, Recorder.

(B)

Copy of order to officer.—A copy of the order to an officer or other person to report to a retiring board shall be prefixed to the record of the case.

TREASURY DEPARTMENT,
UNITED STATES COAST GUARD.

Washington, June —, 19—.

Senior Capt. A. B. C——, U. S. Coast Guard.

President Coast Guard Retiring Board,

Barge Office, New York, N. Y.

Subject: Transmitting official papers, retirement Capt. J. R. A——,
U. S. Coast Guard.

SIR: There are transmitted herewith certain papers and reports relating to Capt. J. R. A——, U. S. Coast Guard, which are to be returned with the record of proceedings of the retiring board, of which you have been designated as president.

Respectfully.

A—— M——, *Assistant Secretary.*

(C)

LETTER TO MEDICAL MEMBERS OF BOARD.

COAST GUARD RETIRING BOARD,

Barge Office, New York, N. Y., ———, 19—.

Surg. K. L. M——, U. S. Public Health Service.

Asst. Surg. N. O. P——, U. S. Public Health Service.

GENTLEMEN: 1. You are directed to make a careful examination into the past and present mental and physical condition of Capt. J. R. A——, U. S. Coast Guard, whose case has been referred to this board for examination, and report as to his capacity to perform the duties appropriate to his commission.

2. Besides a personal examination, you will examine closely all matter transmitted to the board in this case from the files and records of Coast Guard Headquarters, and you will also endeavor to obtain from any other authentic source within your reach such information as will aid the board in the performance of its duties, and will report the result in writing.

3. In case you find the officer under examination incapacitated for active service, you will ascertain and report upon the cause of his disability, the medical treatment he has received for it and by whom administered, and the degree of his incapacity for active service anywhere in the Coast Guard.

4. If you find this officer incapacitated for active service anywhere in the Coast Guard you will state whether in your opinion the incapacity would yield to proper treatment within a reasonable time or is likely to be permanent, and whether the physical or mental disability is due to an incident of service, or whether due to the infirmities of age, or whether due to his own vicious habits.

Respectfully,

A. B. C——,

Senior Captain, U. S. Coast Guard, President.

COAST GUARD RETIRING BOARD,
Barge Office, New York, N. Y., Monday, June —, 19—.

The board met at 10 a. m., June —, 19— (or, this day), pursuant to an order; copy prefixed, marked "A."

VAR. ——— pursuant to orders, copies prefixed, marked "A-1" and "A-2." (This variation is used when original members are detached, when the date or place of meeting is changed, etc.)

Present:

Senior Capt. A. B. C——, U. S. Coast Guard, president.
Capt. of Engineers D. E. F——, U. S. Coast Guard, member.
Capt. G. H. I——, U. S. Coast Guard, member and recorder.
Surg. K. L. M——, U. S. Public Health Service, member.
Asst. Surg. N. O. P——, U. S. Public Health Service,
member.

Capt. J. R. A——, U. S. Coast Guard, reported in obedience to an order, copy prefixed, marked "B."

Right of person to be present.—The person under examination has the right to be present at all open sessions of the board, but may be excused at his own request from attending any particular session, and, if excused, the fact shall be recorded in the proceedings. Care shall be taken not to discharge him from attendance before the board until all the evidence in his case is completed.

Right to cross-examine.—He has the right to question the medical officers on their report of his examination, cross-examine other witnesses, offer evidence in rebuttal, and submit a written statement under oath.

The recorder read the authorization for the employment of a stenographer, hereto appended, marked "—," and Mr. C—— F—— was introduced to serve in that capacity.

VAR. Ship's writer J—— B——, U. S. Coast Guard, was detailed to act as stenographer (clerk) and was introduced.

The convening order (and orders amending the same) was (were) read by the recorder, and there was no objection to any member.

Challenge.—See procedure for minor courts in case of challenge of a member.

The members of the board, the recorder (if not a member) and the stenographer were duly sworn.

Administration of oaths.—The oaths shall be administered to the members and recorder by the president, and to the president and stenographer by the recorder.

Form of oath for member.—You, A. B. ———, do solemnly swear (or affirm) that you will honestly and impartially discharge your duties as a member of this board in the matter now before it: So help you God.

Form of oath for recorder.—You, C. D. ———, do solemnly swear (or affirm) that you will, according to your best ability, accurately and impartially record the proceedings of this board: So help you God.

Form of oath for recorder when member.—You, C. D. —, do solemnly swear (or affirm) that you will honestly and impartially discharge your duties as a member of this board in the matter now before it, and that you will, according to your best ability, accurately and impartially record the proceedings of this board: So help you God.

Form of oath for stenographer (clerk).—You, F. G. —, do solemnly swear (or affirm) that you will faithfully perform the duty of stenographer (clerk) in aiding the recorder to take and record the proceedings of this board, either in shorthand or ordinary manuscript: So help you God.

The recorder read a communication from Headquarters, transmitting certain papers relative to the case, appended, marked “—.” Those papers marked “—” to “—” were read and are appended.

Papers to be read.—All papers having any bearing on the physical or mental condition of the person under examination shall be read as above indicated.

Authority of retiring board.—A retiring board shall inquire into and determine the facts touching the nature and occasion of the disability of any person ordered before it who appears to be incapable of performing the duties of his office, and shall have such powers as may be necessary for that purpose. The board has power to summon witnesses as specified in general court procedure.

The medical members were directed to examine into the past and present mental and physical condition of Capt. J. R. A——; letter of instructions appended, marked “—.”

Pending the mental and physical examination the board took a recess (or, adjourned) in this case until 2 o'clock p. m., June —, 19— (or, until 9.30 o'clock a. m., to-morrow the — instant), when it reconvened; present, the entire board and the person under examination. The medical members submitted a report.

Capt. J. R. A——, U. S. Coast Guard, was asked by the president whether he wished to be retired, and replied in the affirmative.

He was then duly sworn as a witness, and testified as follows:

Person does not wish to be retired.—If the person does not wish to be retired, he shall not be sworn as a witness until after the medical members and following witnesses have been examined.

Form of oath for witness.—You, S. T., do solemnly swear (or affirm) that you will make true answer to such questions as may be put to you in the case of —, now under examination by this board: So help you God.

Examined by the president:

1. Q. State the nature of your disability, its cause, and how long you have suffered from it.

A. * * *

2. Q. * * *

A. * * *

3. Q. * * *

A. * * *

Examined by the board:

11. Q. * * *

A. * * *

19. Q. Do you desire to say anything further concerning your case?

A. * * *

Examination by the board.—After the completion of the examination by the president, any member of the board may question the witness. Such questions, if unobjected to, shall be recorded as by the board. If objected to and the objection is sustained, they shall be recorded as "by a member."

The witness verified his testimony and then resumed his seat as the interested party.

The medical members swore to the report of the mental and physical examination of Capt. J. R. A——, which was then read by the recorder and appended, marked "—."

Inrat on medical report.—Sworn to and subscribed before me, ———, 19—. G. H. I——, Captain, U. S. Coast Guard, Recorder.

Surg. K. L. M——, U. S. Public Health Service, senior medical member of the board, was duly sworn, and testified as follows:

Examined by the president:

1. Q. Is this the report of the result of the mental and physical examination of Capt. J. R. A—— by the medical members of this board?

A. It is.

2. Q. From what cause does Capt. A——'s disability proceed?

A. * * *

3. Q. Is the disability permanent?

A. * * *

4. Q. Is Capt. A——'s disability such as to incapacitate him for active service?

A. * * *

Examination of senior medical officer.—The examination of the witness should be conducted so as to bring out all material facts on the lines indicated.

Capt. A—— stated that he had no question to ask (*or*, asked the following questions):

* * * * *

The witness verified his testimony, and then resumed his seat as a member.

Other medical member examined.—The other medical member of the board shall then be similarly interrogated.

Other witnesses.—Such other witnesses as may be necessary or desirable shall then be introduced.

If person does not desire retirement.—If the person under examination does not desire retirement, he shall be the next witness examined.

Capt. A—— stated that he did not desire to rebut the evidence of the medical members nor to make a statement. He was then discharged from further attendance.

VAR. 1. —— asked and received permission to summon Dr. K—— T——.

Dr. K—— T—— appeared, was duly sworn, and testified as follows: (Examined as for defense in a minor court.)

Capt. A—— had no other witness to call. He made a sworn statement, appended, marked “—.”

He was then discharged from further attendance.

VAR. 2. —— requested the board to summon as witnesses in rebuttal the following-named persons (here insert names) (or, and requested permission to make a sworn statement).

The request of Capt. A—— was granted and the necessary summons issued (or, and said sworn statement is appended, marked “—”). Pending the arrival of the witness the board adjourned until ——.

The board met June —, 19—, pursuant to adjournment of the — instant.

Present: All the members (the recorder, if not a member), and the person under examination.

——, a witness on the part of Capt. A——, was duly sworn and testified as follows: ——.

The witness verified his testimony and then withdrew. (The same procedure is followed with regard to all witnesses, except the members of the board and the interested party, as such.)

Capt. A—— then submitted in evidence certain papers, appended, marked “—” to “—.”

Capt. A—— had no further evidence to introduce and was discharged from further attendance.

The board was closed.

Findings of board.—When the board finds a person incapacitated for active service, it shall also find and report the degree of such incapacity, whether or not such incapacity is likely to be permanent, and the cause which in its judgment has produced it; and it shall further find and report whether the physical or mental disability is due to an incident of service, or whether due to the infirmities of age, or whether due to his own vicious habits. A finding that the physical or mental disability is due to the infirmities of age must include the statement, “and not due to vicious habits.”

The board, having deliberated on the evidence before it, decided that Capt. J—— R. A——, United States Coast Guard. is in-

capacitated for active service by reason of (here state reason), and that his incapacity is the result of an incident of service.

A. B. C. ———,

Senior Captain, U. S. Coast Guard, President.

D. E. F. ———,

Captain of Engineers, U. S. Coast Guard, Member.

G. H. I. ———,

Captain, U. S. Coast Guard, Member and Recorder.

K. L. M. ———,

Surgeon, U. S. Public Health Service, Member.

N. O. P. ———,

Assistant Surgeon, U. S. Public Health Service, Member.

The board then adjourned.

A. B. C. ———,

Senior Captain, U. S. Coast Guard, President.

G. H. I. ———,

Captain, U. S. Coast Guard, Recorder.

VAR. 1. ——— decided that Capt. ———, U. S. Coast Guard, is not incapacitated for active service.

VAR. 2. ——— decided that ——— is temporarily incapacitated for active service by reason of malarial poisoning, and recommends that he be granted sick leave for ——— months.

VAR. 3. ——— decided that ——— is incapacitated for active service by reason of ——— and that his incapacity is the result of his own vicious habits and not due to any incident of service.

VAR. 4. ——— decided that the incapacity of ——— is due to the infirmities of age and not due to vicious habits.

Finding and decision of board.—The finding and decision of the majority shall be the finding and decision of the board, and shall be signed by all the members who concur. The finding and decision need not be in the handwriting of the recorder.

Minority report.—If a member dissents from the finding and decision of the board, he is authorized to submit a minority report of his finding and decision, which shall be recorded immediately after the finding and decision of the majority.

Record forwarded to Headquarters.—The proceedings, finding, and decision of the board shall be transmitted to Headquarters.

Revision.—If it appear that the investigation was not complete, or that the finding and decision were not justified by the facts as developed on the inquiry, the record shall be returned to the board for a further consideration of the case and a modification of its finding and decision, if warranted by the facts developed on further investigation. New evidence may be received by the board. The proceedings in revision must form a separate and complete record, which must be prefixed to the record of which it is a revision.

FORM OF LETTER FROM MEDICAL MEMBERS TO PRESIDENT OF BOARD.

COAST GUARD RETIRING BOARD,
Barge Office, New York, N. Y., June —, 19—.

Senior Capt. A. B. C——, U. S. Coast Guard,
President of Retiring Board.

Subject: Report of medical members.

SIR: 1. We have carefully and separately examined Capt. J—— R. A——, U. S. Coast Guard, as to his past and present mental and physical condition, together with the records pertaining to his case and report as follows:

Capt. A—— is — years old and has been — years in the Coast Guard. (This will include total service in the Revenue-Cutter Service, Life-Saving Service, Coast Guard, Army, Navy, and Marine Corps.)

He has suffered from some of the common ailments, including ——, which are shown to have originated in the line of duty, and with ——, which are shown not to have so originated. The foregoing ailments, however, have no bearing (or have the following bearing) on his present condition:

On ——, 19—, he was transferred from —— to the United States Marine Hospital at ——, ——, with heart disease, which originated in the line of duty. (The medical history should here be set forth *in extenso*.)

We believe him to be suffering with a chronic inflammation of the heart.

We consider this condition to be permanent, by reason of which he is incapacitated for active service in the Coast Guard, and that his incapacity is (not) the result of an incident of service.

Respectfully,

K. L. M——,
Surgeon, U. S. Public Health Service.
N. O. P——,
Assistant Surgeon, U. S. Public Health Service.

Sworn to and subscribed before me June —, 19—.

G. H. I——,
Captain, U. S. Coast Guard, Recorder.

NOTE.—When it is desirable or necessary, an additional report on Form 2502 shall be made and accompany the above letter. This form of letter is intended as a general guide only, and should in no way restrict the scope of the inquiry, which should be as thorough as possible.

VAR. 1. —— We find that —— is suffering from ——, which, by the records, is shown to have originated in the line of duty.

We consider this condition to be temporary, and therefore he is not permanently incapacitated for active service in the Coast Guard. We find that he is at present unfit for duty and recommend that he be ordered to a marine hospital for treatment and further observation.

VAR. 2. —— We find that —— is at present unfit for duty and recommend that he be granted sick leave for —— months.

VAR. 3. —— We therefore find that —— is not incapacitated for active service.

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